

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name Ramirez Martin A
 (Last) (First) (Initial)

Prisoner Number D-66383

Institutional Address P.O. Box 689/FW-138-U

Correctional Training Facility, Soledad, CA.93960-0689

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

Martin A. Ramirez
 (Enter the full name of plaintiff in this action.)

vs.

Ben Curry et. al.,

(Enter the full name of respondent(s) or jailor in this action)

Case No. _____
 (To be provided by the clerk of court)

**PETITION FOR A WRIT
 OF HABEAS CORPUS**

E-filing

Read Comments Carefully Before Filling In

When and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainees), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

1. What sentence are you challenging in this petition?

(a) Name and location of court that imposed sentence (for example; Alameda County Superior Court, Oakland):

Los Angeles County Superior Court

Court Location

(b) Case number, if known A035761

(c) Date and terms of sentence August 28, 1987

(d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes X No

Where?

Name of Institution: Correctional Training Facility

Address: P.O. Box 689/ FW-138-U /Soledad, CA.93960

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)

Second degree murder / Penal Code 187

3. Did you have any of the following?

Arraignment: Yes x No

Preliminary Hearing: Yes x No

Motion to Suppress: Yes No x

4. How did you plead?

Guilty Not Guilty x Nolo Contendere

Any other plea (specify) no

5. If you went to trial, what kind of trial did you have?

Jury x Judge alone Judge alone on a transcript

6. Did you testify at your trial? Yes x No

7. Did you have an attorney at the following proceedings:

(a) Arraignment Yes x No

(b) Preliminary hearing Yes x No

(c) Time of plea Yes x No

(d) Trial Yes x No

(e) Sentencing Yes x No

(f) Appeal Yes x No

(g) Other post-conviction proceeding Yes No x

8. Did you appeal your conviction? Yes x No

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes x No

Year: 1987 Result: judgment affirmed

Supreme Court of California Yes No x

Year: Result:

Any other court Yes No

Year: Result:

(b) If you appealed, were the grounds the same as those that you are raising in this

1 petition? Yes _____ No ☒

2 (c) Was there an opinion? Yes _____ No ☒

3 (d) Did you seek permission to file a late appeal under Rule 31(a)?

4 Yes _____ No ☒

5 If you did, give the name of the court and the result:

6 _____
7 _____

8 9. Other than appeals, have you previously filed any petitions, applications or motions with respect to
9 this conviction in any court, state or federal? Yes _____ No ☒

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that
11 challenged the same conviction you are challenging now and if that petition was denied or dismissed
12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit
13 for an order authorizing the district court to consider this petition. You may not file a second or
14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28
15 U.S.C. §§ 2244(b).]

16 (a) If you sought relief in any proceeding other than an appeal, answer the following
17 questions for each proceeding. Attach extra paper if you need more space.

18 I. Name of Court: _____

19 Type of Proceeding: _____

20 Grounds raised (Be brief but specific):

21 a. _____

22 b. _____

23 c. _____

24 d. _____

25 Result: _____ Date of Result: _____

26 II. Name of Court: _____

27 Type of Proceeding: _____

28 Grounds raised (Be brief but specific):

1 a. _____

2 b. _____

3 c. _____

4 d. _____

5 Result: _____ Date of Result: _____

6 III. Name of Court: _____

7 Type of Proceeding: _____

8 Grounds raised (Be brief but specific):

9 a. _____

10 b. _____

11 c. _____

12 d. _____

13 Result: _____ Date of Result: _____

14 IV. Name of Court: _____

15 Type of Proceeding: _____

16 Grounds raised (Be brief but specific):

17 a. _____

18 b. _____

19 c. _____

20 d. _____

21 Result: _____ Date of Result: _____

22 (b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

23 Yes _____ No x

24 Name and location of court: _____

25 B. GROUNDS FOR RELIEF

26 State briefly every reason that you believe you are being confined unlawfully. Give facts to

27 support each claim. For example, what legal right or privilege were you denied? What happened?

28 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: SEE ATTACHED PETITION

6
7 Supporting Facts: SEE ATTACHED PETITION

8
9
10
11 Claim Two: SEE ATTACHED PETITION

12
13 Supporting Facts: SEE ATTACHED PETITION

14
15
16
17 Claim Three: SEE ATTACHED PETITION

18
19 Supporting Facts: SEE ATTACHED PETITION

20
21
22
23 If any of these grounds was not previously presented to any other court, state briefly which
24 grounds were not presented and why:

1 List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases:

4 SEE ATTACHED PETITION
5
6

7 Do you have an attorney for this petition? Yes X No

8 If you do, give the name and address of your attorney:
9

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12
13 Executed on 4-22-08

14 Date

15 Signature of Petitioner
16
17
18
19

20 (Rev. 6/02)
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARTIN A. RAMIREZ

Case No. _____

Petitioner

v.

BEN CURRY, Warden

Respondent

PETITION FOR WRIT OF HABEAS CORPUS;
MEMORANDUM OF POINTS & AUTHORITIES

Martin A. Ramirez D-66383
P.O. Box 689/FW-138-U
CTF Central Facility
Soledad, CA.93960-0689

Petitioner In Pro Per

TABLE OF CONTENTS

Petition For Writ Of Habeas Corpus	1
I. Procedural History; Administrative & Judicial Remedies	2
The Petition is Timely	2
Petitioner is in Custody	2
Exhaustion of Administrative Remedies	2
Exhaustion of State Remedies	2
Jurisdiction and Venue	2
II. Statement of Case.	3
III. Parties	3
IV. Circumstances of The Offense	4
V. The Board of Parole Hearings Record	4
VI. Petitioner's Psychological Evaluation	5
VII. Petitioner's Prior Record	5
VIII. Prayer For Relief	6
IX. Memorandum of Points And Authorities	7
The Law on Parole	7
1. The Decision is Not Supported by Any Relevant or Material Evidence	9
(a) The Commitment Offense Does Not Constitute "Some Evidence" For Denial of Parole in This Case.	9,10,11,12,13
2. The Board's Boilerplate Reliance on Static History Factors Violates Fundamental Due Process	13,14,15,16,17,18,19,20
CONCLUSION	20,21

TABLE OF EXHIBITS

1. Hearing Transcript - April 25, 2007
2. Los Angeles Superior Court denying habeas corpus petition
3. Court of Appeal Order denying habeas corpus petition
4. California Supreme Court order denying petition for review

TABLE OF AUTHORITIES

In re Barker (2007) 151 Cal. App. 4th 369	18,19
Biggs v. Terhune 334 F.3d 910 (9th Cir. Cal. 2003).....	8,13,16,17,18,20
Board of Pardons v. Allen (1987)482 U.S. 369,377-378.....	7,16,17
In re Caswell, 92 Cal. App. 4th 1017,1030	8,15
Cato v. Rushen 824 F.2d 703 (9th Cir. Cal. 1987)	8
In re Dannenberg (2005) 34 Cal. 4th 1061, 1095	11,12,19
In re Deluna (2005) 126 Cal. App. 4th 585	12
In re Elkins (2006) 144 Cal. App. 4th 480-481	10,13
Greenholtz v. Inmates of Nebraska Penal (1979) 442 U.S. 1,12	7,16,17,19
Irons v. Carey, 479 F.3d 658,665 (9th Cir. 2007)	16,17,20
Jancsek v. Oregon Board of Parole. 833 F.2d 1389,1390 (9th Cir. 1987)	8,9
Joint Anti-Fascist Refugee Comm. v. McGrath (1951) 341 U.S. 123,163	14
Lankford v. Idaho () 500 U.S. 110,121	13
In re Lawrence (2007) 150 Cal. App. 4th 1534-1542	17,18,20
In re Lee (2006) 143 Cal. App. 4th 1409	11,12,18,19,20
In re Lowe (2005) 130 Cal. App. 4th 1411-1412	10,12
Martin v. Marshall (2006) 431 F. Supp.2d 1038	13,20

TABLE OF AUTHORITIES

CONTINUED

In re McClendon (2003) 113 Cal. App. 4th 315	12
McQuillion v. Duncan 306 F.3d 895,902 (9th Cir. 2002)	8,15,17
Morrissey v. Brewer (1972) 408 U.S. 471,481	9
O'Connor v. Donaldson (1975), 422 U.S. 563,575	20
In re Ramirez, 94 Cal. App. 4th 549,565	7
In re Rosenkrantz (2002) 29 Cal. App. 4th 616,653.....	7,8,12,14,17
Sass v. Board of Prison Terms 461 F.3d 1123,1129 (9th Cir. 2006)	16,17
In re Scott (2004) 119 Cal. App. 4th 587.....	11
In re Scott (2005) 133 Cal. App. 4th 573,595	12,20
In re Smith (2003) 109 Cal. App. 4th 489,504	11
In re Smith (2003) 114 Cal. App. 4th 366-367.....	10,20
People v. Summers (1983) 147 Cal. App. 3d 180,184	11
Superintendent v. Hill (1985) 472 U.S. 445,456	9
In re Tripp (2007) 150 Cal. App. 4th 320	18
In re Weider (2006) 145 Cal App. 4th 570 at 582-583.....	19
Willis v. Kane __F.Supp. 2d__ (N.D. Cal. 2007).....	20

1 Martin A. Ramirez D-66383
2 P.O. Box 689/FW-138-U
3 CTF Central Facility
4 Soledad, CA.93960-0689
5

6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA
8 SAN FRANCISCO DIVISION
9

10 MARTIN A. RAMIREZ

CASE NO. _____

11 PETITIONER

PETITION FOR WRIT OF HABEAS
CORPUS AND MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF.

12 ON HABEAS CORPUS
13 _____/

14
15
16 PETITION FOR WRIT OF HABEAS CORPUS

17 TO: THE HONORABLE UNITED STATES DISTRICT JUDGE OF THE UNITED
18 STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA.

19 Based on facts, grounds, arguments, authorities and exhib-
20 its, herein petitioner, Martin A. Ramirez in propria persona
21 respectfully seeks habeas corpus relief in an order
22 (a) Vacating Board of Parole Hearings action of April 25, 2007
23 that denied petitioner for the thrid time since becoming eligible
24 for parole on December 27, 1996. The Board based its decision on
25 the commitment offense and his institutional behavior consisting
26 of four 128s and one 115 and no record of violence.

27 //

28 //

1 (b) Petitioner, by way of this writ does not challenge his conditions
2 of confinement at the Correctional Training Facility, Soledad, Calif-
3 ornia. Rather, petitioner, by way of this writ does contest and cha-
4 llenge the violations of rules, regulations, California Penal Codes,
5 State and Federal case laws, and denial of protection of due process,
6 equal protection, and cruel and/or unusual punishment under both the
7 State and Federal Constitutions.

I.

8 **PROCEDURAL HISTORY;**

9 **ADMINISTRATIVE & JUDICIAL REMEDIES**

10
11 The Petition is Timely. The California Supreme Court denied a
12 petition for review of the instant claim on
13 AEDPA time constraints have been met.

14 **Petitioner is in Custody.** Petitioner is housed by the California
15 Department of Corrections & Rehabilitations at the Correctional Tr-
16 aining Facility (CTF), Soledad, California, Ben Curry, Warden.

17 **Exhaustion of Administrative Remedies.** California provides no ad-
18 ministrative remedy for action by the Board of Parole Hearings.
19 (See HT-8).

20 **Exhaustion of State Court Remedies.** The Los Angeles Superior Court
21 denied a habeas corpus petition (case no. BH004700) on December 3,
22 2007. The California Court of Appeal, Second Appellate District, de-
23 nied a petition raising the instant claims (case no. B204676) on
24 January 31, 2008). The California Supreme Court denied a petition
25 for review (case no.

26 **Jurisdiction and Venue.** This Court has Jurisdiction and is the pro-
27 per venue. 28 USC §2241 (d). Petitioner is confined at CTF, Soledad,
28 California.

II.

STATEMENT OF CASE

Preliminary formalities (HT11). 1/ (Exhibit 1, hearing transcript of parole hearing conducted on April 25, 2007).

Martin A. Ramirez (hereafter petitioner) was received by the California Department of Corrections & Rehabilitations on September 16, 1987, committed from Los Angeles County for the offense of second degree murder in violation of Penal Code §187. He is indeterminately sentenced to a term of 15 years to life without any additional enhancements. His case number is A035761. His minimum eligible parole date is December 27, 1987.

III.

PARTIES

Petitioner, Martin A. Ramirez CDC number #D-66383 is a prisoner of the state of California.

Respondent, Ben Curry is the Warden of the Correctional Correctional Training Facility, Soledad, California and is the legal custodian of the petitioner.

//

//

//

//

//

//

//

//

References to the parole hearing transcript will be indicated by HT followed by page number, i.e, (HT 0).

IV.

CIRCUMSTANCES OF THE OFFENSE

The following statements are taken from petitioner's hearing transcripts dated April 25, 2007. (HT 10-11). On Christmas Eve, 1986, the victim, Geraldo Jones, and others were at a Christmas Eve Party when someone asked Jones to give him a ride home. Someone else drove, and the group parked in front of the residence at 1325 East 50th Street, Long Beach. Geraldo Jones got out of the van apparently to look for a friend. A witness reported that there were four or five Mexican males standing in the driveway when Ramirez shot Jones several times in the abdomen. Jones fell to the ground. Ramirez then shot him two more times while he was on the ground. There were a total of four gunshot wounds to the abdomen causing Jones' death. A friend of the victim who came upon the scene and tried to administer first aid and told investigating detectives that about a month before the shooting there was an argument between Jones and Ramirez threatening to kill Jones. Several days later, Ramirez went to Long Beach Police Department and told desk personnel he had killed someone

V.

THE BOARD OF PAROLE HEARINGS RECORD

On April 25, 2007, a panel of the Board of Parole Hearings considered the matter of petitioner's parole suitability for the third time in 20-years of incarceration. In making its determination, the panel relied on Penal Code 3041 (a) & (b), and California Code of Regulations, Title 15, Division. 2, 2402 (Determination of Suitability).

In the matter of Martin A. Ramirez, CDC# D-66383, the panel has reviewed all of the information received from the public and relied on

1 the following circumstances in concluding that the prisoner is not suit-
2 able for parole and would pose an unreasonable risk of danger to society,
3 or a threat to public safety if released from prison.

4 The panel finds the offense was carried out in an especially cruel and
5 callous/violent manner. [CCR 2402, c, 1].

6 The victim was abused during this offense. [CCR, 2402, c, C].

7 The offense was carried out in a dispassionate and calculated manner.
8 [CCR. 2402, c, B].

9 The offense was carried out in a manner which demonstrates an excepti-
10 onally callous disregard for human life. [CCR. 2402, c, D].(HT 45-46).

11 VI.

12 PETITIONER'S PSYCHOLOGICAL EVALUATION

13
14 The record shows petitioner has been cleared by the Board's own
15 clinicians. His last psychological report dated 3/18/05 and authored by
16 Jeff Howlin, Ed.D. was favorable. In this regard he said the following:
17 His violence potential within a controlled setting is estimated to be
18 well below the average compared to his level two inmate population. If
19 released to the community, his violence potential was estimated to be
20 no more than the average citizen in the community. His most recent, his
21 most significant risk factor would be a precursor to violence would be
22 a return to the abuse of alcohol or drugs. Should this man abuse subst-
23 ances again, his violence potential would be considered much higher
24 than that of the average citizen in the community. (HT 47-48).

25 VII.

26 PETITIONER'S PRIOR RECORD

27 According to the evidence before the Board, petitioner has no
28 prior record as a juvenile or an adult.


VIII.

PRAYER FOR RELIEF

Martin Ramirez states that he has no other plain or speedy remedy save Habeas Corpus: therefore, he prays this honorable court;

1. Issue an order to show cause;
2. appoint counsel to represent petitioner in any and all proceedings in this matter;
3. conduct an evidentiary hearing;
4. order respondents to provide petitioner with reasonable discovery;
5. declare the rights of the petitioner;
6. grant any other further relief the court deems proper and just.

Dated: 4-22-08



Martin Ramirez

IX.

MEMORANDUM OF POINTS AND AUTHORITIESTHE LAW ON PAROLE

Penal Code section 3041, subdivision (a) requires that at a suitability hearing the board "shall normally set a parole release date...Subdivision (b) provides that a release date "shall" be set "unless" the Board determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of public safety requires a more lengthy period of incarceration for this individual...See, e.g., *In re Rosenkrantz*, 29 Cal.App. 4th 616, at 653, (2002), citing to *In re Ramirez*, 94 Cal. App. 4th 549, at 565. The parole board regulations make this criterion more specific. The panel can deny only if the prisoner would pose an unreasonable risk of danger to society if released from prison. (Cal. Code Regs., tit 15, 2402, subd (a). The regulations set forth specific criteria to determine whether under the standard a prisoner is suitable for parole.

Under the rule created by the United States Supreme court in *Greenholtz v. Inmates of Nebraska Penal* (1979) 442 U.S. 1,12, and *Board of Pardons v. Allen* (1987) 482 U.S. 369, 377-378, a state's statutory parole scheme which used mandatory language "creates a presumption that parole will be granted" when or unless certain designated findings are made, and therefore gives rise to a constitutional liberty interest. The California parole scheme uses mandatory language which is parallel to the parole scheme found in *Greenholtz* and *Allen*

1 to give rise to a protected liberty interest in parole. Accordingly,
 2 the California parole scheme gives rise to a cognizable liberty in-
 3 terest in release on parole. See also, *McQuillion v. Duncan*, 306 F.3d
 4 895, 902 (9th Cir. Cal.2002); and *Biggs v. Terhune*, 334 F.3d 910
 5 (9th Cir. Cal. 2003), affirming these propositions in California's
 6 section 3041, penal code. Following on the heels of *McQuillion*, supra,
 7 the seminal case of *In re Rosenkrantz* held that the statutory parole
 8 scheme creates a liberty interest under California due process of law.
 9 *Id.*, at 29 Cal. 4th at 668, fn.12. The court then applied the clearly
 10 established federal due process test to review a gubernatorial dec-
 11 ision to deny parole. It recognized that a gubernatorial decision is
 12 subject to judicial review to determine whether there is "some evid-
 13 ence" to support the decision. In this case, the decision by the Board
 14 to find petitioner unsuitable for parole is also subject to review to
 15 determine if there is some evidence to support the decision, the ev-
 16 idence must bear some indicis of reliability, *Cato v. Rushen*, 824 F.
 17 2d 703, 705 (9th Cir. Cal. 1987); also, *Jancsek v. Oregon Board of*
 18 *Parole*. 833 F. 2d 1389, 1390. (9th Cir. 1987). The evidence must be
 19 relevant and material to the decision. (Cal. Code Regs., 15. 2000 (b)
 20 (50) Good Cause; (63) Material Evidence, (90) Relevant Evidence (*Ibid.*
 21 (50) Good Cause: A finding by the board based upon a preponderance of
 22 the evidence that there is a factual basis and good reason for the
 23 decision made. Evidence which tends to prove or disprove an issue or
 24 facts in dispute. *In re Caswell*, 92 Cal. App. 4th 1017, 1030; *McQuillion*
 25 *supra*, 306F.3d at 906,910.

26 A. THE DECISION TO FIND PETITIONER UNSUITABLE FOR
 27 PAROLE IS AN ABUSE OF DISCRETION AND VIOLATES DUE
 28 PROCESS; PETITIONER MUST BE GRANTED A PAROLE DATE.

1 **1. THE DECISION IS NOT SUPPORTED BY ANY RELEVANT OR**
2 **MATERIAL EVIDENCE.**

3 Proceeding under the presumption that the evidence must be rele-
4 vant and material, there was no relevant or material evidence to base
5 denial of parole to petitioner. Under federal due process analysis, af-
6 ter finding a liberty interest, it must be determined what process is
7 due. Morrissey v. Brewer (1972) 408 U.S. 471, 481. In this context, the
8 United States Supreme Court has held that there must be "some evidence"
9 Superintendent v. Hill (1985) 472 U.S. 445, 456, where it states that
10 "the fundamental fairness guaranteed by the due process clause does not
11 require courts to set aside decisions of prison administrators that ha-
12 ve some basic fact."

13 Additionally, the evidence underlying the Board's decision must
14 have some indicia of reliability. Jancsek, supra 833 F. 2d at 1390. In
15 this case, petitioner contends that the Board of Parole Hearings errone-
16 ously concluded there is some evidence to justify the finding that he
17 is unsuitable for parole.

18 **(a). THE COMMITMENT OFFENSE DOES NOT CONSTITUTE "SOME**
19 **EVIDENCE" FOR DENIAL OF PAROLE IN THIS CASE.**

20 In finding petitioner unsuitable for parole the panel stated
21 that the commitment offense was carried out in an especially cruel and
22 callous/violent manner. Additionally, the victim was abused during this
23 offense; the offense was carried out in a dispassionate and calculated
24 manner. Moreover, the offense was carried out in a manner which demon-
25 strates exceptionally callous disregard for human life. Such a finding
26 is contrary to the facts of the case, where the record indicates that
27 the petitioner would pose a violence potential well below average as
28

1 compared to level two inmate population. If released to the community,
2 his violence potential was estimated to be no more than the average cit-
3 izen in the community. (HT 47-48). It could be argued that any and all
4 murders are carried out in a manner that demonstrates an exceptionally
5 cruel and callous disregard for human life. And in fact is what second
6 degree murder is. But used as a regulation for unsuitability would have
7 to denote something grater than an ordinary or typical killing. Nonethe-
8 less, as the psychological evaluation report clearly demonstrates, pet-
9 itioner has made substantial and significant progress in growth and his
10 maturation during his 20 years of incarceration. Despite this offense,
11 he was sentenced to a parolable sentence. Certainly, his case falls wi-
12 thin the meaning expressed in Ramirez, supra, that any murder is parol-
13 able under the statute. Yet, the panel made no effort to distinguish his
14 offense as containing circumstances which are beyond the minimum nece-
15 ssary to sustain a conviction for the crime of second degree murder.

16 It could be argued that all murders are carried out in an espec-
17 ially cruel and violent manner, without regard to human suffering. (In
18 re Ernest Smith 114 Cal. App. 4th 366-367; (In re Lowe 130 Cal. App. 4th
19 1411-1412); In re Elkins 144 Cal. App. 4th 480-481). Second degree mur-
20 der requires express or implied malice--i.e, the perpetrator must kill
21 another person with the specific intent to do so; or he or she must ca-
22 use another persons death by intentionally performing an act, knowing
23 it is dangerous to life with conscious disregard for life. (§§ 187-189;
24 see CALJIC No. 8.11). For this reason, it can reasonably be said that
25 all second degree murders by definition involve some callousness--i.e,
26 lack of emotion or sympathy, emotional insensitivity, indifference to
27 the feelings and suffering of others. (See Webster's Third New Interna-
28 tional Dict. (3d ed. 1993) p. 319, col.1.) As noted, however, parole is

1 the rule, rather than the expectation, and a conviction for second degree
2 murder does not automatically render one unsuitable. Was the crime cal-
3 lous? Yes. However, are the facts of the crime some evidence that the
4 petitioner acted with exceptionally callous disregard for the victim in
5 this case more so than any second degree murder. Do the facts distinguish
6 this crime from other second degree murders as exceptionally callous,
7 the answer is no. (Cf. *In re Smith* (2003) 109 Cal. App. 4th 489, 504,
8 506 [134 Cal. Rptr. 2d 781].

9 In denying parole for the third time in 20 years, the board finds
10 that the victim in this case was abused during this offense but failed
11 to demonstrate how or when the victim was abused and yet the Board
12 finds this factor is evidence that the petitioner is a current threat
13 to public safety 20 years after the crime was committed. (HT 45).

14 To support a finding that the offense was committed in an especially
15 cruel, callous & violent manner, there must be some evidence that
16 the violence and viciousness of the inmate's crime is greater than that
17 which is "minimally necessary to convict [the defendant] of the offense
18 for which he is confined." (§ 2402, subd. (c) (1); *In re Dannenberg*
19 (2005) 34 Cal. 4th 1061, 1095.)

20 Malice itself involves an element of viciousness--an extreme in-
21 difference to the value of human life. (*People v. Summers* (1983) 147
22 Cal. App. 3d 180, 184.) As has been previously noted, [A]ll second de-
23 gree murders by definition involve some callousness--i.e., lack of emotion
24 or sympathy, emotional insensitivity, indifference to the feelings
25 and suffering of others. (*Scott I*, supra, 119 Cal. App. 4th at p. 587.)
26 Thus, "the inquiry is whether among murders the one committed by the
27 petitioner was particularly heinous, atrocious or cruel." (*In re Lee*,
28 supra, 143 Cal. App. 4th at p. 1409). As one court recently stated:

"The test is not whether some evidence supports the reasons the Board cites for denying parole, but whether some evidence indicates a parolee's release unreasonably endangers public safety". (In re Lee (2006 143 C.A. 4th 1400, 49 C. Rptr. 3d 931, 936 (emp. in original). In re Scott (2005) 133 Cal. App. 4th 573, 595 [34 Cal. Rptr. 3d 905] ["The commitment offense can negate suitability [for parole] only if circumstances of the crime ... rationally indicate that the offender will present an unreasonable public safety risk if released from prison "]; but see In re Lowe (2005) 130 Cal. App. 4th 1405 [31 Cal. Rptr. 3d 1] [suggested some evidence applies to the factors, not dangerousness]. Some evidence of the existence of a particular factor does not necessarily equate to some evidence the parolee's release unreasonably endangers public safety.

Comparing petitioner to defendants for whom the board or Governor properly denied parole because the defendants crimes were atrocious is illuminating.

--In Rosenkrantz, the defendant "brutally murdered his victim after a full week of careful preparation, rehearsal and execution". The defendant killed his victim by firing "10 shots at close range from an assault weapon and [firing] at least three or four shots into the victim's head as he lay on the pavement". (Rosenkrantz, supra, 29 Cal. 4th at p. 678).

--In re Dannenberg, supra, 34 Cal. 4th at p. 1095, the defendant "reacted with extreme and sustained violence, "striking" multiple blows to his wife's head with a pipe wrench. "While she was helpless from her injuries, he delivered the coup de grace by placing her head "into a bathtub full of water, ... or at least left it there without assisting her until she was dead." (Ibid.)

--In re McClendon (2003) 113 Cal. App. 4th 315 [6 Cal. Rptr. 3d 278], the defendant planned a "calculated attack" in the middle of the night" against his estranged wife. He arrived at her home wearing rubber gloves and carrying a handgun and wrench, which he used to attack his wife and another victim. (Id. at pp. 321-322.)

--In re Deluna (2005) 126 Cal. App. 4th 585[24 Cal. Rptr. 3d 643], the defendant fought with the victim outside of a bar, retrieved a rifle, shot the victim in the mouth and then "deliberate[ly] stalked the defenseless victim" through the parking lot, firing at him until he died. (Id. at p. 1414.)

--In re Elkins, (2006) 144 Cal. App. 4th 475, the defendant robbed a friend who was sleeping who owed money for drugs, a 19-year-old addict who on probation for another offense struck the victim with a baseball bat then pummled him to death with that bat, drove the body into the wilderness and dumped it down a remote embankment, stole more of the victim's belongings from a storage locker, and fled the state. (Id.p.480)

--In martin v. Marshall (2006) 431 F. Supp. 2d 1038, the defendant, a drug user shot his drug dealer whom he owed money, and two other innocent restaurant patrons, killing both the dealer and one of the patrons. (Id. at p. 1040).

All of the above murders involved at least as "shockingly vicious use of leathality" and "exceptionally callous disregard for human suffering" as did petitioner's murder of his victim. Several resulted in the killing or wounding of multiple victims. Several had economic as opposed to emotional motives, and several prisoners were involved in other criminal activities at the time of the offense. Yet state appellate courts or federal courts found these earlier commitment offenses failed to provide "some evidence" of the perpetrator's present dangerousness if released to the outside world. Additionally, two recent cases approved by the California Supreme Court, In re Elkins, 144 Cal. App. 4th 475; In re Lee, 143 Cal. App. 4th 1400, concluded that offense circumstances more than 20-years old are not "reliable predictors and do not provide "some evidence" for making an "unreasonable risk" finding.

2. THE BOARD'S BOILERPLATE RELIANCE ON STATIC HISTORY FACTORS VIOLATES FUNDAMENTAL DUE PROCESS.

The Ninth Circuit has expressed concern about the use of the commitment offense to repeatedly deny parole. As the circuit in Biggs v. Terhune (9th Cir. 2003) 334 F 3d 910, 916, recently acknowledge: Due Process is not a mechanical instrument. It is a process. It is a delicate process of adjustment inescapably involving the exercise of judgment by those whom the constitution has entrusted with the unfolding of the process. "Lankford v. Idaho 500 U.S. 110, 121 (1991) (quoting

1 Joint Anti-Fascist Refugee Comm. v. McGrath, 341 U.S. 123, 163 (1951)
2 (Frankfurter, J., Concurring). A continued reliance in the future on an
3 unchanging factor, the circumstances of the crime... runs contrary to
4 the rehabilitative goals espoused by the prison system and could re-
5 sult in a due process violation. See also, In re Rosenkrantz, supra,
6 29 Cal. 4th at 689 (Moreno, J., concurring). (Emphasis added). Biggs
7 was denied at his first initial parole hearing. The Circuit allowed
8 that the commitment offense could be used at that initial hearing as
9 a legitimate cause for denial of parole, but questioned whether it
10 could be used as a factor to continue denying parole at subsequent
11 hearings. At first blush, the use of the offense in the petitioner's
12 case at his initial hearing might have been upheld as "some evidence".
13 but the hearing challenged here is his (3rd) subsequent hearing. The
14 Biggs court gave clear indication that had it been Biggs subsequent
15 hearing, the court may have found against the Board on using the off-
16 ense to again base parole denial on.

17 When considering the offense as circumstances for unsuitability
18 the Board must be and should be mindful that the circumstances of the
19 offense are static and unchangeable. The most important aspect of this
20 case is the dynamic changes that years of imprisonment and exposure to
21 positive, behavioral programs has made in this petitioner. The record
22 shows that he has achieved the objective of corrections, i.e., to co-
23 rrect behavior, and the record shows official and professional recog-
24 nition that he does not pose an unreasonable risk to public safety if
25 paroled. Thus, since there is no evidence whatsoever of unreasonable
26 risk, which is the standard by which the Board's decision legally hi-
27 nges, the Board's decision denying petitioner parole must be reversed.
28 The statutory default must be enforced in this case. Because the rele-

1 vant evidence shows no more callous disregard for human suffering than
2 is shown by most second degree murder offenses, the Board's use of this
3 factor to conclude that petitioner committed his offense in an especially
4 cruel and callous was arbitrary and capricious. Examined in light of
5 the record, the Board's explanation of why petitioner is not suitable
6 for release from prison is revealed as no more than the mouthing of con-
7 clusory words. And to say that the petitioner abused his victim dur-
8 ing this offense has absolutely no support in the record. The reliable
9 factual underpinning that is constitutionally required cannot be shown
10 (See McQuillion v. Duncan (9th Cir. 2002) 306 F. 3d 895, 902; (In re
11 Caswell (2001) 92 Cal. App. 4th 1017, 1027), [112 Cal Rptr. 2d 462].
12 even under the exceptional deferential standard of review.(HT 45-50).

13 The "some evidence" used to support a parole decision must be
14 based on relevant, reliable evidence, drawn from specified factors, ser-
15 ving to establish whether the inmate would pose a current threat to
16 public safety.

17 The "some evidence" standard of review is laid out succinctly by
18 Rosenkrantz: [w]e conclude that the judicial branch is authorized to
19 review the factual basis of a decision of the Board denying parole in
20 order to ensure that the decision comports with the requirements of due
21 process of law, but that conducting such a review, the court may inq-
22 uire only whether some evidence in the record before the Board supports
23 the decision to deny parole, based upon the factors specified by stat-
24 ute and regulation.

25 Starting in 2002, when the Ninth Circuit once-and-for-all held
26 that indeterminately sentenced prisoners in California have a protected
27 liberty interest in parole "that is protected by the procedural safe-
28 gaurds of Due Process Clause" (McQuillion v. Duncan, 306 F. 895, 903

1 (9th Cir. 2002), there was a paradigm shift in interpreting
2 California's parole statutes for those indeterminately sentenced pri-
3 soners.

4 In 2003, the Ninth Circuit held, argued as "dicta," based on
5 Greenholtz v. Inmates of Nebraska Penal and Correctional Complex (here-
6 after Greenholtz), 442 U.S. 1, (1979) and Board of Pardons v. Allen,
7 483 U.S. 369 (1987), opined: "The parole Board's decision is one of
8 'equity' and requires a careful balancing and assessment of factors
9 considered" (Biggs v. Terhune, 334 F.3d 910, 916 (9th Cir. 2003), con-
10 cluding: "A continued reliance in the future on an unchanging factor,
11 the circumstances of the offense and conduct prior to imprisonment,
12 runs contrary to the rehabilitative goals espoused by the prison system
13 and could result in a due process violation" (Id., at 917)).

14 In 2006, The Ninth Circuit, although affirming that Biggs repre-
15 sents the law of this circuit (Sass v. Board of Prison Terms, 461 F.3d
16 1123, 1129 (9th Cir. 2006), appeared to back off from Biggs, leaving
17 some confusion among courts in this circuit. The law being a living or-
18 ganism, however, mutating as abuse by the Executive become obvious and
19 adjustments for those abuses become necessary, the Ninth Circuit has
20 not only reiterated its holding in Biggs (see Irons v. Carey, 479 F.3d
21 658, 665 (9th Cir. 2007) ["We hope that the Board will come to recognize
22 that in some cases, indefinite detention based solely on an inmate's
23 commitment offense, regardless of the extent of his rehabilitation,
24 will at some point violate due process, given the liberty interest that
25 flows from the relevant California statutes. Biggs, 334 F.3d at 917"])),
26 but the Irons Court noted: "We note that in all cases which we have
27 held that a parole board's decision to deem a prisoner unsuitable for
28 parole solely on the basis of his commitment offense comports with due

process, the decision was made before the inmate had served the minimum number of years required by his sentence" (Id), as was the case in Biggs and Sass, suggesting the due process violation is established after the prisoner has served his or her minimum term.

Recently, in a detailed analysis of California and federal law, the Second Appellate District recently held under both the California and United States constitutions, life prisoners in California have a "liberty interest" in parole and judicial review is the "some evidence" standard (In re Lawrence, ___ Cal. App. 4th ___ (2007), 2007 WL 1475283, *16-22 (filed 5/22/07), citing, inter alia, Greenholtz, 442 U.S. 1 supra; Board of Pardon v. Allen, 482 U.S. 369, supra; Superintendent v. Hill, 472 U.S. 445 (1985); McQuillion v. Duncan, 306 F.3d 895, supra; Biggs v. Terhune, 334 F.3d 910, supra; Sass v. Board of Prison Terms, 461 F.3d 1123, supra; Irons v. Carey, 479 F.3d 658, supra; In re Rosenkrantz, 29 Cal. 4th 616 (2002); In re Dannenberg, 34 Cal. 4th 1061 (2005)). The Lawrence court held, 2007 WL 1475283, at *22-23, supra):

"Combining the California and federal standard standards of review, as they have been articulated thus far by the California Supreme Court and the Ninth Circuit, respectively, the commitment crime can lack the power to supply 'some evidence' supporting a denial of parole because of the interplay between two factors--the nature of that crime and the passage of time since its commission. That is, the fact there is 'some evidence' the crime was committed and committed a certain way at a certain time does not mean that crime necessarily represents 'some evidence' the prisoner's release on parole will pose an unreasonable risk of danger to the public safety at the present time. Whether it possesses the necessary predictive value depends both on the nature of the crime and how long ago it happened."

Relative to "some evidence: "it is not just 'some evidence' to support the Governor's findings, but 'some evidence' sufficient to satisfy the statute's ultimate test is, 'some evidence' the release of Lawrence would subject society to an 'unreasonable risk' of danger to public

1 safety" (Id., at *26). "The test is not whether some evidence supports
 2 the reasons the Governor cites for denying parole, but whether some
 3 evidence indicates a parolee's release unreasonably endangers public
 4 safety" (In re Lee, 143 Cal.App. 4th 1400, 1408 (2006), emphasis in
 5 original, petition for review denied, depublication denied). In re-
 6 viewing a suitability determination, the Executive "must remain focused
 7 not on the circumstances that may be aggravating in the abstract but,
 8 rather, on facts indicating that release currently poses 'an unreason-
 9 able risk of danger to society' (§ 2402, subd. (a); accord, pen code,
 10 § 3041, subd. (b))" In re Elkins, 144 Cal. App. 4th 475, 499 (2006),
 11 petition for review denied, depublication denied). In other words,
 12 "whether the inmate will be able to live in society without committing
 13 additional antisocial acts" (In re Lawrence, 2007 WL 1475283, *25,
 14 supra).

15 Although the commitment offense can be initially used to deny
 16 parole (Biggs v. Terhune, 334 F.3d, at 916, supra), as recently opined
 17 In re Tripp, ___ Cal. App. 4th ___ (2007), DJDAR 5877, at 5881 c.2
 18 [DJDAR 4/30/07]):

19 "the viciousness of the commitment offense must be balanced
 20 against the passage of time and any evidence of an inmate's
 21 rehabilitation. Among the indicators of parole suitability
 22 are: '(7) Age. The prisoner's present age reduces the prob-
 23 ability of recidivism. [¶] 18. Understanding and plans for
 24 the Future. The prisoner has made realistic plans for release
 25 or has developed marketable skills that can be put to use
 26 upon release. [¶] (9). Institutional Behavior. Institutional
 27 behavior indicates an enhanced ability to function within the
 28 law upon release.' (Reg., § 2402, subd. (d))."

24 Thus, weighing the commitment offense, against the passage of time, re-
 25 habilitation, parole plans, and postconviction behavior, "[u]nless
 26 there is an unreasonable risk the parole applicant will re-offend and
 27 thus pose a risk to public safety she or he is to be released on par-
 28 ole" (In re Lawrence, supra, at *24; See also In re Barker, ___ Cal.

1 App. 4th ____ (2007), 2007 DJDAR 7548, 7556 c. 2 (DJDAR 5/29/07)
2 ["'To deny parole, the reason must relate to a defendant's continued
3 risk to public safety'"] quoting *In re Lee*, 143 Cal. App. 4th, at 1414,
4 supra.

5 The offense and past history of substance abuse cannot be viewed
6 in a vacuum as though current, but is to be placed into perspective re-
7 lative to time, "entailing primarily what a man is and what he may be-
8 come rather than simply what he has done" (Greenholtz, supra, 442 U.S.,
9 at 10). As the Supreme Court opined in Greenholtz: "the purpose of par-
10 ole" is "the long-range objective of rehabilitation" (Id., at 13). In
11 considering parole, therefore, not only important is "the gravity of
12 the offense in a particular case[,]" but the "behavioral record of an
13 inmate during confinement is critical in the sense that it reflects the
14 degree to which the inmate is prepared to adjust to parole release"
15 (Id., at 15). Thus, a prisoner's "behavior in prison is often molded
16 by his hope and expectation of securing parole at the earliest time
17 permitted by law" (Id., at 20).

18 Another recent case relative to case at bench, in that petitioner
19 was convicted of second degree murder and sentenced to 15 years to
20 life, now having served a quarter century, 15 years past his minimum
21 eligible parole date and a decade past his minimum term in calendar
22 years, is the appellate court case of In re Weider, 145 Cal. App. 4th
23 570, at 582-583 (2006), in which the court noted:

24 "[I]t should be self evident that after an inmate has served
25 the equivalent of 25 years, whether his actions were more
26 than minimally necessary for second degree conviction... is
27 no longer the appropriate question. [The Board's] position,
28 that inmates who were only convicted of second degree may
forever be denied parole based on some modicum of evidence
that their acts rose to the level of first, without acknow-
ledging the fact that they have already served the time for
a first, should be seen as so ridiculous that simply to
state it is to refute it."

Petitioner, with postconviction custody credits, 4 years per year for 80 months equals 26 and one half years, plus preconviction credits (*Willis v. Kane*, ___ F. Supp. 2d ___ (N.D. Cal. 2007), 2007 WL 1232060, *10), has exceeded even the maximum term of 33 years for first degree murder, transmuting his sentence into life without the possibility of parole. Because we live in a society in which "[m]ere public intolerance or animosity cannot constitutionally justify the deprivation of a person's physical liberty" (*O'Connor v. Donaldson*, 422 U.S. 563, 575 (1975)), we cannot let decisions based on political safety rather than public safety stand.

Even if petitioner's term was to be fixed at the maximum for 2nd degree murder, 21 years, having a three year parole, when excess custody credits are applied to parole, he is to be discharged (*Martin v. Marshall*, 448 F. Supp. 2d 1143, 1145 (N.D. Cal. 2006)).

CONCLUSION

The question is, after the passage of time, is there any evidence not that the offense was callous or cruel, but is petitioner a CURRENT threat to public safety? To determine that the commitment offense cannot be viewed in a vacuum, but must be weighed against additional factors. To deny parole, the reasons given, based on the evidence, must be relevant to CURRENT threat to public safety (*In re Lawrence*, 2007 WL 1475283, *25, *supra*; *In re Smith*, 114 Cal. App. 4th 343, 371-372 (2003); *In re Lee*, 143 Cal. App. 4th at 1412, *supra*; *In re Elkins*, 144 Cal. App. 4th, at 496, 500-502, *supra*; *In re Scott*, 133 Cal. App. 4th, 573, 594-595 (2005); *Biggs v. Terhune*, 334 F.3d, 916-917, *supra*; *Irons v. Carry*, 479 F.3d, at 665, *supra*).

WHEREFORE, in that petitioner has been imprisoned 11 years beyond his

1 minimum term, has an exemplary postconviction record, and the commitment
2 offense twenty years ago having no predictive value of current threat
3 to public safety, it is respectfully respectfully requested that the
4 writ be granted and the Board ordered to fix petitioner's term.

5
6
7
8
9 Dated: 4-22-08

Respectfully submitted,

10
11
12 
13 Martin Ramirez

DECLARATION OF MARTIN A. RAMIREZ

I declare as follows:

I am the petitioner in this case. I am over the age of eighteen years. I am a party to the attached action. I am a resident of the Correctional Training Facility in Soledad, California. My address is P.O. Box 689/FW-138-U CTF Central Facility, Soledad, California. 93960. I served the attached document entitled "WRIT OF HABEAS CORPUS" on the persons/parties specified below by placing a true copy of said document into a sealed envelope with the appropriate postage affixed thereto and surrendering said envelope to the following:

OFFICE OF THE ATTORNEY GENERAL
455 GOLDEN GATE AVENUE. SUITE 11000
SAN FRANCISCO, CA. 94102

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 22 day of April, 2008 at the Correctional Training Facility in Soledad, California


Declarant

EXHIBIT 1

SUBSEQUENT PAROLE CONSIDERATION HEARING

STATE OF CALIFORNIA

BOARD OF PAROLE HEARINGS

**INMATE
COPY**

In the matter of the Life)
Term Parole Consideration)
Hearing of:)
)
MARTIN RAMIREZ)
_____)

CDC Number D-66383

CORRECTIONAL TRAINING FACILITY

SOLEDAD, CALIFORNIA

APRIL 25, 2007

1:24 p.m.

PANEL PRESENT:

Philip S. Inglee, Presiding Commissioner
James Martin, Deputy Commissioner

OTHERS PRESENT:

Martin Ramirez, Inmate
David Ugalde, Interpreter
Patrick Sparks, Attorney for Inmate
Lawrence Morrison, Deputy District Attorney
James Evans, Observer, CPS Human Resource Services
Correctional Officer Unidentified

CORRECTIONS TO THE DECISION HAVE BEEN MADE

____ No
____ Yes

See Review of Hearing
Transcript Memorandum

Joan Liban
Northern California Court Reporters

INDEX

	<u>Page</u>
Proceedings	1
Case Factors	10
Pre-Commitment Factors	17
Post-Commitment Factors	28
Parole Plans	21
Closing Statements	40
Recess	44
Decision	45
Adjournment	51
Transcriber Certification	52

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

INMATE RAMIREZ: Good afternoon.

DEPUTY COMMISSIONER MARTIN: We're on tape.

PRESIDING COMMISSIONER INGLEE: Good afternoon,
Mr. Ramirez.

INMATE RAMIREZ: Good afternoon.

PRESIDING COMMISSIONER INGLEE: This is a
subsequent parole consideration hearing. This is for
Martin Ramirez, CDC number D-66383. Before we go any
further, I need to swear in our interpreter. Please
raise your hand, sir. Do you solemnly swear that in
acting as an interpreter in this hearing, you will

accurately and correctly interpret the proceedings to
the best of your ability?

INMATE RAMIREZ: Yes.

PRESIDING COMMISSIONER INGLEE: Fine. Thank you.
Today's date is April the 25th 2007. The time is 1:24.
We are located at CTF, Soledad Prison. The Inmate was
received on 9/16/1987. He was committed from Los
Angeles County. The life term began on 9/16/1987. The
Inmate's minimum eligible parole date is 12/27/1996.
The controlling offense for which the Inmate had been
committed is set forth in case number A035761, charging
in count one, violation of Penal Code Section 187, no
other counts or state accounts. The Inmate received a
term of 15 years base term, no enhancements for 15
years to life. We now have to identify ourselves for

1 the transcript. Starting with myself, we will give our
2 full names, spelling our last names. When it gets to
3 the prison, you'll do the same but you'll also give us
4 your CDC number. Starting with myself and going to my
5 left. My name is Philip Inglee. That's I-N-G-L-E-E. I'm
6 a Commissioner.

7 **DEPUTY COMMISSIONER MARTIN:** Good afternoon. I'm
8 James Martin, M-A-R-T-I-N. I am Deputy Commissioner.

9 **MR. EVANS:** My name is James Evans, E-V-A-N-S.
10 I'm an observer and I am from CPS Human Resource
11 Services.

12 **DEPUTY DISTRICT ATTORNEY MORRISON:** Lawrence

13 ~~Morrison, M-O-R-R-I-S-O-N, Los Angeles District~~
14 Attorney and I have all the documents in the checklist.
15 Thank you.

16 **ATTORNEY SPARKS:** Patrick Sparks, S-P-A-R-K-S,
17 attorney for Mr. Ramirez.

18 **INMATE RAMIREZ THROUGH INTERPRETER:** My name is
19 Ramirez. Oh, Martin Ramirez, R-A-M-I-R-E-Z, D-66383.

20 **INTERPRETER UGALDE:** My name is David Ugalde,
21 U-G-A-L-D-E. Marin County interpreter.

22 **PRESIDING COMMISSIONER INGLEE:** Mr. Ramirez, in
23 front of you is an ADA Statement. Would you please read
24 that out loud? I'm going to give a copy to the
25 interpreter unless you want to read it. We would
26 normally ask you to read this, sir. But we do not
27 appear to have one in Spanish so I'm going to, I'm

1 going to give this copy to your interpreter and ask him
2 to read it off for you and listen to him closely,
3 please.

4 **INTERPRETER UGALDE:** [Starts to read ADA in
5 Spanish]

6 **PRESIDING COMMISSIONER INGLEE:** You have to speak
7 up a little bit louder, sir.

8 **INTERPRETER UGALDE:** Oh, okay. All right.

9 **ATTORNEY SPARKS:** We want to note that you're
10 actually --

11 **INTERPRETER UGALDE:** Okay. That's good. Okay.
12 [Reads ADA in Spanish]

13 ~~**PRESIDING COMMISSIONER INGLEE:** Did you~~
14 understand what he read to you?

15 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

16 **PRESIDING COMMISSIONER INGLEE:** Mr. Ramirez, do
17 you understand English?

18 **INMATE RAMIREZ THROUGH INTERPRETER:** A little
19 bit.

20 **PRESIDING COMMISSIONER INGLEE:** My Spanish is
21 really poco. All right. Officer, could you bring that
22 back over, please? The record reflects that you signed
23 a BPT Form 1073 which is a Reasonable Accommodations
24 Notice and Request in accordance with the provisions of
25 the Americans with Disabilities Act and that was
26 signed on 12/11/2006. At that time, you said that you
27 had no disabilities. Is that still correct?

1 INMATE RAMIREZ THROUGH INTERPRETER: It's okay.

2 PRESIDING COMMISSIONER INGLEE: You also noted
3 that you would need a Spanish interpreter. Is that
4 correct?

5 INMATE RAMIREZ THROUGH INTERPRETER: Yes.

6 PRESIDING COMMISSIONER INGLEE: The gentleman
7 that you're working with today, can you understand him?

8 INMATE RAMIREZ THROUGH INTERPRETER: Yes.

9 PRESIDING COMMISSIONER INGLEE: Okay. We have a
10 few more questions to ask you in this regard. or for a
11 distance of a hundred yards or more?

12 INMATE RAMIREZ THROUGH INTERPRETER: No.

13 PRESIDING COMMISSIONER INGLEE: Do you need
14 glasses or a magnifying glass in order to read or to
15 see documents?

16 INMATE RAMIREZ THROUGH INTERPRETER: This time,
17 yes, I am in need of them.

18 PRESIDING COMMISSIONER INGLEE: Does he have
19 glasses with him?

20 INMATE RAMIREZ THROUGH INTERPRETER: No, they did
21 not provide it to me yet.

22 PRESIDING COMMISSIONER INGLEE: Okay. Well, if
23 you have problems reading then ask your interpreter or
24 your attorney to help you. If it's necessary.

25 INMATE RAMIREZ THROUGH INTERPRETER: Thank you.

26 PRESIDING COMMISSIONER INGLEE: Do you have any
27 hearing problems?

1 INMATE RAMIREZ THROUGH INTERPRETER: No.

2 PRESIDING COMMISSIONER INGLEE: Have you ever
3 been treated under the triple CMS or EOP mental health
4 program?

5 INMATE RAMIREZ THROUGH INTERPRETER: No.

6 PRESIDING COMMISSIONER INGLEE: Have you ever
7 taken any psychotropic medication?

8 INMATE RAMIREZ THROUGH INTERPRETER: No.

9 PRESIDING COMMISSIONER INGLEE: How far did you
10 go in school before you came to prison?

11 INMATE RAMIREZ THROUGH INTERPRETER: 6th grade.

12 PRESIDING COMMISSIONER INGLEE: 6th grade? Did you
13 have to take any special education classes while you
14 were growing up?

15 INMATE RAMIREZ THROUGH INTERPRETER: No.

16 PRESIDING COMMISSIONER INGLEE: Do you suffer
17 from any disability that would prevent you from
18 participating in today's hearing?

19 INMATE RAMIREZ THROUGH INTERPRETER: No.

20 PRESIDING COMMISSIONER INGLEE: Counsel, do you
21 have any comments or concerns regarding your client's
22 ADA rights?

23 ATTORNEY SPARKS: No.

24 PRESIDING COMMISSIONER INGLEE: This hearing
25 is being conducted pursuant to Penal Code Sections
26 3041, 3042, and the rules and regulations of the Board
27 of Prison Terms governing parole consideration hearings

1 for life inmates. The purpose of today's hearing is to
2 consider your suitability for parole. In doing so, we
3 will consider the number and nature of the crimes you
4 were committed for, your prior criminal and social
5 history, your behavior and programming since your
6 commitment. We have had an opportunity to review your
7 central file and your prior hearing transcript. You
8 will be given an opportunity to correct and clarify the
9 record. We will consider your progress since your
10 commitment and since your last hearing. Your updated
11 counselor's report and psychological report will also
12 be considered. Any change in parole plans should be
13 brought to our attention. We will reach a decision
14 today, and then we will inform you whether or not we
15 will find you suitable for parole and the reasons for
16 our decision. If you are found reasonable, suitable
17 for parole, we will tell you the length of your
18 confinement and it will be explained to you. This
19 hearing will be conducted in two phases. I will
20 discuss with you the crimes that you were committed
21 for, your prior criminal and social history, your
22 parole plans, and any letters of support or opposition
23 that may be in the file. Deputy Commissioner Martin
24 will then discuss with you the progress you've made
25 since your commitment, your counselor's report, and
26 your psychological report. Once that is concluded, the
27 Commissioners, the District Attorney, and your attorney

1 will be given an opportunity to ask you questions. The
2 questions from the District Attorney will be answered
3 through us and the Chair and not back to the District
4 Attorney. Before we recess for deliberations, the
5 District Attorney, your attorney, and you will be given
6 an opportunity to make a final statement regarding your
7 parole suitability. Your statement should be directed
8 as to why you feel you are suitable for parole. We
9 will then recess, clear the room and deliberate. Once
10 we've completed our deliberations, we will then resume
11 our hearing and announce our decision. The California
12 Code of Regulations, excuse me, the California Code of
13 Regulations states that regardless of time served a
14 life inmate shall be unsuitable for, found unsuitable
15 for and denied parole if in the judgment of the Panel
16 the inmate would pose an unreasonable risk of danger to
17 society if released from prison. You have certain
18 rights. These rights include the right for a timely
19 notice of this hearing, the right to review your
20 central file, and the right to present relevant
21 documents. Counselor, has your inmate's rights been
22 met in this regard?

23 **ATTORNEY SPARKS:** Yes.

24 **PRESIDING COMMISSIONER INGLEE:** You also have
25 the right to be heard by an impartial Panel. Do you,
26 does the Inmate have any objections to this Panel?

27 **INMATE RAMIREZ THROUGH INTERPRETER:** No.

1 **PRESIDING COMMISSIONER INGLEE:** Counsel, do you
2 have any objection to this Panel?

3 **ATTORNEY SPARKS:** No.

4 **PRESIDING COMMISSIONER INGLEE:** You will receive
5 a copy of the written copy of our decision. That
6 decision is subject to review by the Decision Review
7 Unit and by the entire Board meeting as a body. It
8 will become effective within 120 days. It is also
9 subject to review by the Governor. A copy of the
10 tentative decision and a copy of the transcript will be
11 sent to you. As of May 1st, 2004, there were major
12 changes limiting your former rights of appeal Board
~~13 decisions or actions directly to the Board. The old~~
14 Board regulations were repealed. The current policy is
15 entitled Administrative Appeals Correspondence and
16 Grievances Concerning the Board of Prison Terms
17 Decisions. It is available at the prison law library.
18 You are not required to admit your offense or discuss
19 your offense if you do not wish to do so; however, this
20 Panel does accept as true the findings of the Court,
21 and you are invited to discuss the facts and
22 circumstances of the offense if you so desire. The
23 Board will review and consider any prior statements you
24 have made regarding the offense in determining your
25 suitability for parole. Deputy Commissioner, is there
26 confidential material in the file and if so, will it be
27 used today?

1 DEPUTY COMMISSIONER MARTIN: There is some
2 confidential material and it may be used.

3 PRESIDING COMMISSIONER INGLEE: As in other
4 hearings, if we decide to use it in the element of the
5 confidential material, we will advise the attorney.
6 Okay. I believe that both the Attorney and Counsel have
7 said that they have all their, their hearing Checklist
8 documents. Is that correct?

9 ATTORNEY SPARKS: Yes, I have those. Thank you.

10 PRESIDING COMMISSIONER INGLEE: Are any
11 additional documents to be submitted today?

12 ATTORNEY SPARKS: No.

13 ~~PRESIDING COMMISSIONER INGLEE: Are there any~~
14 preliminary objections?

15 ATTORNEY SPARKS: No.

16 PRESIDING COMMISSIONER INGLEE: Will the Inmate
17 be speaking to the Panel?

18 ATTORNEY SPARKS: Yes.

19 PRESIDING COMMISSIONER INGLEE: On all subjects?

20 ATTORNEY SPARKS: Yes.

21 PRESIDING COMMISSIONER INGLEE: All right. Please
22 ask him to raise his right hand. Do you solemnly swear
23 or affirm that the testimony you give at this hearing
24 will be the truth, the whole truth, and nothing but the
25 truth?

26 INMATE RAMIREZ THROUGH INTERPRETER: Yes.

27 PRESIDING COMMISSIONER INGLEE: Thank you.

1 Counsel, if there's no objections, we will incorporate
2 by reference the statement of facts that come from the
3 Appellate Decision, pages two through four.

4 **ATTORNEY SPARKS:** No objection.

5 **PRESIDING COMMISSIONER INGLEE:** To bring us all
6 up to date so we understand the key elements of the
7 crime, I'm going to read the summary of the crime
8 that's coming off the Board Report that was put out on
9 April 2007. Under the summary of the crime:

10 "On Christmas Eve 1986, the victim,
11 Geraldo Jones was on his way to a
12 Christmas party when someone asked Jones
13 ~~to give him a ride home. Somebody else~~
14 drove and the group parked in front of
15 the residence at 1325 East 50th Street,
16 Long Beach. Geraldo Jones got out of
17 the van apparently to look for a friend.
18 A witness reported that there were four
19 or five Mexican males standing in the
20 driveway when Ramirez shot Jones several
21 times in the abdomen. As Jones fell to
22 the ground, Ramirez then shot him two
23 more times while he was on the ground.
24 There also totaled, there was a total of
25 four gunshot wounds to the abdomen
26 causing Jones' death. A victim of the
27 crime who came upon -- a friend of the

11

1 victim of the crime who came upon the
2 scene and tried to administer first aid
3 told investigating detectives that about
4 a month before the shooting, there had
5 been an argument between Jones and
6 Ramirez with Ramirez threatening to kill
7 Jones. Several days later, Ramirez went
8 to Long Beach Police Department and told
9 the Desk Personnel he was there because
10 he had killed someone."

11 Okay, Mr. Ramirez, tell us what happened.

12 **INMATE RAMIREZ THROUGH INTERPRETER:** Do you want
13 me to tell you about the crime? Before, we had had; we
14 argued about some words. He wanted to fight me with a
15 knife. At that time, I left. When I got back home, my
16 father told me that he came to look for me. That one
17 really upset me because I found my family scared at the
18 time. So I went to my other sister's house where he
19 used to live and asked him to come out and I asked him
20 why do you went (sic) to my house to look for me?

21 **PRESIDING COMMISSIONER INGLEE:** Can I ask you a
22 question while he's telling the story? Was his, was the
23 victim going with his sister?

24 **INMATE RAMIREZ THROUGH INTERPRETER:** He used to
25 live in my sister's house.

26 **PRESIDING COMMISSIONER INGLEE:** Yeah, well, did
27 they have any relationship other than the fact that

1 they room there?

2 **INMATE RAMIREZ THROUGH INTERPRETER:** No, he was
3 her brother in law. His sister's brother in law.

4 **PRESIDING COMMISSIONER INGLEE:** So he was married
5 to his sister, I'm confused. Who, tell me who --

6 **INMATE RAMIREZ THROUGH INTERPRETER:** My sister's
7 married with the brother of the victim's wife. Girl.

8 **PRESIDING COMMISSIONER INGLEE:** All right. All
9 right. Go forward.

10 **INMATE RAMIREZ THROUGH INTERPRETER:** I asked him
11 to come out and I asked him why do you come look for
12 me? And he said, 'We have not finished yet what we have
13 started.' That's when I threw him a brick that I had.
14 So when I hit him, he pulled out a knife so when I saw
15 that he pulled out a knife, I started running. And he
16 started chasing me and throwing me the knife but he
17 couldn't reach me. After that time, I continued
18 receiving warnings from him. He was telling me that he
19 was going to kill me. He was going to cut me with the
20 use of a knife. So every time I saw him, I tried to
21 avoid him. I increased my stay but he went to look for
22 me at home. When I saw that he came off from the van, I
23 walked towards my house. When I noticed that he was
24 following me, he pulled out a knife. He was getting
25 closer to me. That's when I shot him. And that's how
26 things went.

27 **PRESIDING COMMISSIONER INGLEE:** Did you try to

1 help the man after you shot him?

2 INMATE RAMIREZ THROUGH INTERPRETER: No.

3 PRESIDING COMMISSIONER INGLEDY: Did you run away?

4 INMATE RAMIREZ THROUGH INTERPRETER: Yes.

5 PRESIDING COMMISSIONER INGLEDY: Did anyone try to
6 call the authorities to have somebody come and help
7 like 911?

8 INMATE RAMIREZ THROUGH INTERPRETER: I did not.

9 PRESIDING COMMISSIONER INGLEDY: Where did he get
10 the gun?

11 INMATE RAMIREZ THROUGH INTERPRETER: Supposedly
12 from, from a friend of mine from L.A.

13 PRESIDING COMMISSIONER INGLEDY: How long did he
14 have the gun?

15 INMATE RAMIREZ THROUGH INTERPRETER: A month,
16 month and a half.

17 PRESIDING COMMISSIONER INGLEDY: Did he know how
18 to fire the gun?

19 INMATE RAMIREZ THROUGH INTERPRETER: I don't know
20 but I bought it.

21 PRESIDING COMMISSIONER INGLEDY: Did he shoot the
22 gun after he bought it?

23 INMATE RAMIREZ THROUGH INTERPRETER: No, I have
24 never shot it.

25 PRESIDING COMMISSIONER INGLEDY: Not at all?

26 INMATE RAMIREZ THROUGH INTERPRETER: No. Nothing.

27 PRESIDING COMMISSIONER INGLEDY: You bought a gun

1 and never found out whether it could shoot or not?

2 **INMATE RAMIREZ THROUGH INTERPRETER:** I had never
3 shot with a gun. That was the first time that I had a
4 gun.

5 **PRESIDING COMMISSIONER INGLEE:** So the victim had
6 a knife?

7 **INMATE RAMIREZ THROUGH INTERPRETER:** He had a
8 gun.

9 **PRESIDING COMMISSIONER INGLEE:** He had a gun or a
10 knife?

11 **INTERPRETER UGALDE:** I mean a knife. I'm sorry. A
12 knife.

13 **PRESIDING COMMISSIONER INGLEE:** How far away was
14 he from you?

15 **INMATE RAMIREZ THROUGH INTERPRETER:** Around five
16 feet or six.

17 **PRESIDING COMMISSIONER INGLEE:** Did you ever
18 consider just leaving?

19 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes, I
20 walked towards my house but he followed me. If I
21 continued walking in the sidewalk, he would have
22 followed me where my family was.

23 **PRESIDING COMMISSIONER INGLEE:** Were there any
24 other people around when he shot the man?

25 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes, there
26 were like three more people.

27 **PRESIDING COMMISSIONER INGLEE:** Where were they?

15

1 **INMATE RAMIREZ THROUGH INTERPRETER:** They were at
2 the entrance of my house, front yard. The yard.

3 **PRESIDING COMMISSIONER INGLEE:** No more
4 questions. Deputy Commissioner?

5 **DEPUTY COMMISSIONER MARTIN:** Thank you. No
6 questions.

7 **PRESIDING COMMISSIONER INGLEE:** So the man had
8 threatened you? And eventually pulled a knife. Is that
9 correct?

10 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

11 **PRESIDING COMMISSIONER INGLEE:** And you were
12 carrying a pistol. Why?

13 **INMATE RAMIREZ THROUGH INTERPRETER:** Because he
14 already threatened me many times.

15 **PRESIDING COMMISSIONER INGLEE:** Did he ever point
16 this out to the police authorities?

17 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes. Once,
18 I turned myself to the police, yes. I had a lawyer at
19 first. Outside.

20 **PRESIDING COMMISSIONER INGLEE:** Well, you're, you
21 know, you're, this man that you killed is somebody that
22 you had known for a while. Is that correct?

23 **INMATE RAMIREZ THROUGH INTERPRETER:** Months. Six
24 or seven months.

25 **PRESIDING COMMISSIONER INGLEE:** Did you know him
26 in Mexico? Did he know him in Mexico?

27 **INMATE RAMIREZ THROUGH INTERPRETER:** No.

1 **PRESIDING COMMISSIONER INGLEE:** Okay. Is there
2 anything else you would like to say about the murder?

3 **INMATE RAMIREZ THROUGH INTERPRETER:** Only that I
4 regret it very much. I know that I made a big mistake
5 and I have paid, paid very expensive. I damaged a lot
6 of people. I wish I could remedy this situation but I
7 can't.

8 **PRESIDING COMMISSIONER INGLEE:** Did you know any
9 of his family?

10 **INMATE RAMIREZ THROUGH INTERPRETER:** No.

11 **PRESIDING COMMISSIONER INGLEE:** You shot the man
12 once and then he fell to the ground. Is that correct?

13 **INMATE RAMIREZ THROUGH INTERPRETER:** No.

14 **PRESIDING COMMISSIONER INGLEE:** What happened?

15 **INMATE RAMIREZ THROUGH INTERPRETER:** When he was
16 standing up, I shot him with the shots. And I shot him
17 another, other shot when he was trying to stand up but
18 he was already on the floor.

19 **PRESIDING COMMISSIONER INGLEE:** So you shot him
20 while standing up, the other time while he was down?

21 **INMATE RAMIREZ THROUGH INTERPRETER:** All the
22 shots that I shot were when he was standing up. The
23 shot that I shot him when he was standing up that was
24 the last one.

25 **PRESIDING COMMISSIONER INGLEE:** Well, the report
26 of the killing says that you shot Jones and Jones then
27 fell to the ground. You came on over and shot him again

1 on the ground. Is that true?

2 **INMATE RAMIREZ THROUGH INTERPRETER:** No. I have
3 a document that was presented in Courts that I shot him
4 trying to stand up. I said the same thing in Court. I
5 have the document.

6 **PRESIDING COMMISSIONER INGLEE:** Okay. Let's move
7 on. Take a look at your juvenile record. You had no
8 juvenile record. You had no adult convictions or
9 arrests. Had you ever been arrested in the United
10 States?

11 **INMATE RAMIREZ THROUGH INTERPRETER:** No.

12 **PRESIDING COMMISSIONER INGLEE:** Had you ever been
13 arrested in Mexico?

14 **INMATE RAMIREZ THROUGH INTERPRETER:** No.

15 **PRESIDING COMMISSIONER INGLEE:** Did you come
16 across the border illegally?

17 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

18 **PRESIDING COMMISSIONER INGLEE:** How many times
19 have you, did you do that?

20 **INMATE RAMIREZ THROUGH INTERPRETER:** Coming
21 illegally here? Only once.

22 **PRESIDING COMMISSIONER INGLEE:** Just once?

23 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

24 **PRESIDING COMMISSIONER INGLEE:** You never went
25 home and came back?

26 **INMATE RAMIREZ THROUGH INTERPRETER:** I returned
27 once when my mom was in the hospital. It lasted a month

1 and then I came back.

2 **PRESIDING COMMISSIONER INGLEDY:** Okay. Let's take
3 a look at your personal factors.

4 "Ramirez was born in Tijuana, Mexico to
5 Benite Salas, S-A-L-C-E --"

6 **INMATE RAMIREZ THROUGH INTERPRETER:** Benite
7 Salce.

8 **PRESIDING COMMISSIONER INGLEDY:** Salce? Okay.

9 "and Emmanuel Ramirez. He was brought
10 in Tacome in Tijuana, Mexico where he
11 completed six years of schooling."

12 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

13 **PRESIDING COMMISSIONER INGLEDY:**

14 "Ramirez used marijuana, alcohol and
15 cocaine. He was employed as a truck
16 unloader when arrested. He had resided
17 with his sister in California for four
18 years at the time of the arrest. He had
19 two children who lived with their mother
20 in Los Angeles."

21 This information can be found in the Probation
22 Officer's Report, pages six through eight. Are you
23 currently in Alcoholics Anonymous?

24 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

25 **PRESIDING COMMISSIONER INGLEDY:** And how long had
26 you been there?

27 **INMATE RAMIREZ THROUGH INTERPRETER:** Almost 14,

1 15 years.

2 PRESIDING COMMISSIONER INGLEE: You never had any
3 breaks?

4 INMATE RAMIREZ THROUGH INTERPRETER: No.

5 PRESIDING COMMISSIONER INGLEE: Well, the one
6 you're in right now is the organization you'd normally
7 belong to?

8 INMATE RAMIREZ THROUGH INTERPRETER: AA.

9 PRESIDING COMMISSIONER INGLEE: Here at the
10 prison.

11 INMATE RAMIREZ THROUGH INTERPRETER: Yes. And I
12 went once to Narcotics.

13 PRESIDING COMMISSIONER INGLEE: Do you know the
14 12 steps of Alcoholics Anonymous.

15 INMATE RAMIREZ THROUGH INTERPRETER: Almost all
16 of them.

17 PRESIDING COMMISSIONER INGLEE: What is number
18 eight?

19 INMATE RAMIREZ THROUGH INTERPRETER: We decide to
20 make a list of all those people we have offended. We
21 decided to repair the damage, the damage cost.

22 PRESIDING COMMISSIONER INGLEE: Close. What about
23 number six?

24 INMATE RAMIREZ THROUGH INTERPRETER: Eleven I
25 really know but the six, just let me think of it.

26 PRESIDING COMMISSIONER INGLEE: Well, the fact
27 that he doesn't know the 12 steps doesn't necessarily

1 mean that people are not doing what they're supposed to
2 and understanding the 12 steps. Give us a hearing
3 (inaudible) that the feeling at least that the Inmate
4 has understood the Alcoholics Anonymous program.

5 **INMATE RAMIREZ THROUGH INTERPRETER:** Thank you.

6 **ATTORNEY SPARKS:** He does have as part of his
7 parole plans, the community outreach in Mexico. They've
8 written back to him.

9 **PRESIDING COMMISSIONER INGLEE:** Well, I'm going
10 to give him that he may already know the 12 steps but I
11 want to give him a copy of (inaudible) --

12 **MR. EVANS:** That's in English. I'd recommend --

13 **PRESIDING COMMISSIONER INGLEE:** -- I probably
14 should give that and translate it into Spanish.

15 **INMATE RAMIREZ THROUGH INTERPRETER:** -- I do
16 have it in Spanish. All of it.

17 **PRESIDING COMMISSIONER INGLEE:** Give this to one
18 of your buddies who (inaudible).

19 **INMATE RAMIREZ THROUGH INTERPRETER:** Thank you.

20 **PRESIDING COMMISSIONER INGLEE:** Sure, you know
21 somebody who could use it.

22 **INMATE RAMIREZ THROUGH INTERPRETER:** Thanks.

23 **PRESIDING COMMISSIONER INGLEE:** Okay. Learn your
24 12 steps.

25 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes, I do
26 know them but I'm kind of nervous right now.

27 **PRESIDING COMMISSIONER INGLEE:** I know. I know.

1 But we have men who come in here, we've had two so far
2 this week and they just -- now, to be very frank with
3 you, we've also had one or two that didn't know. So,
4 you know, you are not unique. But it is in your best
5 interest to learn them because it's good to know them
6 and it gives the hearing officers a feeling that you're
7 interested in the program. Okay?

8 **INMATE RAMIREZ THROUGH INTERPRETER:** All right.

9 **PRESIDING COMMISSIONER INGLEE:** Okay. This
10 doesn't mean that we're not going to give you a
11 hearing, a date if, in fact, we believe that was true,
12 just because you didn't know them but it's one of those
13 things that helps. Okay. All right. Let's take a look
14 at your parole plans. Your parole plans.

15 "Mr. Ramirez plans to live in Tijuana
16 with his father, Andrew Ramirez at
17 Canyon Yuca, Yucatan."

18 **INMATE RAMIREZ THROUGH INTERPRETER:** Yucatan.

19 **PRESIDING COMMISSIONER INGLEE:** Yucatan? "Number
20 44, Colonia, Mexico. Tijuana, Baja, California."

21 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

22 **PRESIDING COMMISSIONER INGLEE:**

23 "Because of his experience as a butcher,
24 he plans to be a butcher. He wants to
25 open his own business in the future with
26 his family. He also has 14 years
27 experience in PIA textiles where he is a

1 foreman."

2 All right. And he also has other back up information
3 down here and if the first, if the first plans don't
4 work, he has other issues, other things he can back up
5 to such as your brother for a residence.

6 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

7 **PRESIDING COMMISSIONER INGLEE:** Next, we'll take
8 a look at your letters. First, we'll take a look at
9 the 3042 letters that were sent by the prison to the
10 various institutions and Courts that were involved in
11 your incarceration. There were four sent out on
12 2/21/2007. We did receive a letter back. This is from
13 the City of Longbeach. The City of Longbeach sent a
14 letter, March 6, 2007. They first reviewed the crime
15 and then they came and made the following, came down
16 and made the following recommendation:

17 "Due to the callous nature of this
18 murder and the Inmate's attempt to
19 deceive investigators, it is the opinion
20 of the Longbeach Police Department that
21 Inmate Ramirez has not served sufficient
22 time to ensure rehabilitation and should
23 remain incarcerated for the term of his
24 life imprisonment as prescribed by the
25 sentencing court."

26 It went on further to say that:

27 "Inmate Ramirez would be a detriment and

1 a liability to society if he were placed
2 free on the streets."

3 This is signed Paul A. Arcala, A-R-C-A-L-A, Sargeant,
4 Homicide Detail. Okay. We'll look at your letters.
5 Your first letter comes from your daughter and that's
6 Cynthia Ramirez?

7 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

8 **PRESIDING COMMISSIONER INGLEE:** Yurca?

9 **INMATE RAMIREZ THROUGH INTERPRETER:** (inaudible)

10 **PRESIDING COMMISSIONER INGLEE:** And she is
11 offering you residence in the United States.

12 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

13 **PRESIDING COMMISSIONER INGLEE:** You do know that
14 if you were paroled now or in the future, it's most
15 likely you would be returned to Mexico.

16 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

17 **PRESIDING COMMISSIONER INGLEE:** And so letters
18 for residence in California are not going to work
19 today. It's a very nice letter but you would be, you
20 would be sent to Mexico.

21 **INMATE RAMIREZ THROUGH INTERPRETER:** Even though
22 I return to Mexico, they are ready to help anyways.

23 **PRESIDING COMMISSIONER INGLEE:** You mean
24 financially?

25 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

26 **PRESIDING COMMISSIONER INGLEE:** Okay. They do
27 say:

24

1 "In assisting my father with financial
2 support as well as providing him with a
3 place to stay on my own."

4 You might ask her, if you have another hearing, to say
5 how much financial support they could help you with. As
6 an example, \$500 a month or a \$100 dollars a month.
7 Whatever it might be and so for how many months. Give
8 some example of how they can support you if necessary.
9 Okay?

10 **INMATE RAMIREZ THROUGH INTERPRETER:** That's all
11 right.

12 **PRESIDING COMMISSIONER INGLEE:** And this is a
13 letter from Norma Ramirez. That is your daughter?

14 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

15 **PRESIDING COMMISSIONER INGLEE:** And that's a
16 letter of support. We have a letter from Javier
17 Ramirez. Is that your brother in Tijuana?

18 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

19 **PRESIDING COMMISSIONER INGLEE:**

20 "We have arranged for my brother to be
21 provided with housing, transportation,
22 employment and emotional support."

23 Where, where would you stay if you went to Tijuana with
24 your brother?

25 **INMATE RAMIREZ THROUGH INTERPRETER:** I believe in
26 my parents house.

27 **PRESIDING COMMISSIONER INGLEE:** Yeah, because he

1 doesn't make it sound like it's his house.

2 **INMATE RAMIREZ THROUGH INTERPRETER:** My house?

3 **PRESIDING COMMISSIONER INGLEDY:** No, no. This
4 letter doesn't make it sound like it's his brother's
5 house.

6 **INMATE RAMIREZ THROUGH INTERPRETER:** No, he's got
7 his own house, too. I do have his address.

8 **PRESIDING COMMISSIONER INGLEDY:** Okay, but is he
9 inviting you to live with him or?

10 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

11 **PRESIDING COMMISSIONER INGLEDY:** He is? Okay. We
12 have a letter from your niece, Peaches Lozano Gonzales,
13 Gonzales and that's a letter of support. And then we
14 have a letter from Isabel Lozano.

15 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

16 **PRESIDING COMMISSIONER INGLEDY:** Is that the same?

17 **INMATE RAMIREZ THROUGH INTERPRETER:** Lozano is
18 the last name as a married person.

19 **PRESIDING COMMISSIONER INGLEDY:** They married the
20 same family.

21 **INMATE RAMIREZ THROUGH INTERPRETER:** One is the
22 mother and one is the daughter.

23 **PRESIDING COMMISSIONER INGLEDY:** Oh, okay. And
24 this is from your sister, Isabel?

25 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

26 **PRESIDING COMMISSIONER INGLEDY:** Okay. And,
27 again, that's a letter of support.

26

1 INMATE RAMIREZ THROUGH INTERPRETER: Yes.

2 PRESIDING COMMISSIONER INGLEE: Well, this is a
3 letter from Charles Walked, Superintendent, Prison
4 Industries in Soledad.

5 INMATE RAMIREZ THROUGH INTERPRETER: Yes.

6 PRESIDING COMMISSIONER INGLEE: And it's a letter
7 of recommendation.

8 INMATE RAMIREZ THROUGH INTERPRETER: Yes.

9 PRESIDING COMMISSIONER INGLEE: And this is being
10 sent to the parole, parole officer, if you are paroled.

11 INMATE RAMIREZ THROUGH INTERPRETER: Yes.

12 PRESIDING COMMISSIONER INGLEE: And he says that
13 you are a very good worker and that you should be given
14 priority treatment that in regard to any available
15 employment that, that's out there. Okay?

16 INMATE RAMIREZ THROUGH INTERPRETER: Yes.

17 PRESIDING COMMISSIONER INGLEE: But it's not a
18 specific job though. It's a recommendation. Okay. Are
19 there any other letters that you have?

20 INMATE RAMIREZ THROUGH INTERPRETER: I have my
21 Supervisor's letter also. My Supervisor chronos.

22 PRESIDING COMMISSIONER INGLEE: I don't see it.

23 ATTORNEY SPARKS: It's at the PIA.

24 PRESIDING COMMISSIONER INGLEE: I thought that
25 one, I thought that this was what --

26 ATTORNEY SPARKS: Right. We went over that.

27 PRESIDING COMMISSIONER INGLEE: Yeah.

1 **ATTORNEY SPARKS:** So we've covered that. And
2 that's in the second. Since it's part of what he's been
3 doing institutionally, we put it in that section.

4 **DEPUTY COMMISSIONER MARTIN:** I, I intended to
5 mention it.

6 **ATTORNEY SPARKS:** Thank you.

7 **PRESIDING COMMISSIONER INGLEE:** I guess you have
8 another letter. I'll go and see this one. These are,
9 these are jobs in the State of California. He would be,
10 he would be sent to Mexico.

11 **ATTORNEY SPARKS:** And I intend to mention his INS
12 hold that's been enforced at least since 1994.

13 **PRESIDING COMMISSIONER INGLEE:** All right. Let's,
14 let's talk about your parole plans. It appears that you
15 have very strong support with the State of California
16 and you have family members who will possibly support
17 you financially.

18 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

19 **PRESIDING COMMISSIONER INGLEE:** But we don't
20 know, we don't know how much and for how long. We
21 really should know that. That would be good for you to
22 find out. You have relatives in the State of Baja,
23 Tijuana.

24 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

25 **PRESIDING COMMISSIONER INGLEE:** And they
26 apparently will provide you with housing,
27 transportation and employment but we don't know what

28

1 kind of employment it's going to be and where. What
2 your brother needs to do is to send a letter, telling
3 us about the actual job you're going to have, where
4 it's going to be, what's the address and about the
5 business that you're going to be working for and who
6 you're going to be working for. Okay? We need details.

7 **INMATE RAMIREZ THROUGH INTERPRETER:** That's okay.

8 **PRESIDING COMMISSIONER INGLEE:** We recognize that
9 you're going to go to Mexico and that you're not going
10 to be employed in California but we, the State believes
11 that before we send somebody back to Mexico, that we
12 want to be sure that at least, you have a job to go to
13 and that you would not have to return to criminality or
14 go back to the United States if you did not adequate
15 jobs in the way of making a living. Okay? All right.
16 Is there anything on your, on your parole plans you'd
17 like to tell us.

18 **INMATE RAMIREZ THROUGH INTERPRETER:** No,
19 everything's already --

20 **PRESIDING COMMISSIONER INGLEE:** Okay. Very good.
21 Let's go to post conviction factors.

22 **DEPUTY COMMISSIONER MARTIN:** Mr. Ramirez, I'm
23 going to discuss your institutional adjustment and I'm
24 going to emphasize the recent years. I've relied on a
25 review of your C-file and other reports including a
26 recent psychological evaluation made for the 2005
27 calendar. If it hasn't been already mentioned, you

1 were received by CDC in September of '87. I believe
2 you went to San Quentin and then you arrived at CTF in
3 January of 1989. You were held under Medium A custody
4 and you have a classification score of 19. This is
5 your fourth subsequent parole consideration hearing and
6 this is as good a time to mention that I'm aware of an
7 INS hold that's been enforced at least since 1994.
8 Regarding your vocation, I believe you have skills as a
9 butcher?

10 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

11 **DEPUTY COMMISSIONER MARTIN:** But presently, you
12 are employed in the prison industry textiles. You are a
13 foreman and I am aware that you have quite a bit of
14 skilled experience at running various sewing machines.
15 I've seen a chrono from June of 2006 to that effect and
16 I've also seen six training certification chronos that
17 give you grades from satisfactory to above average.
18 Those are dated in 2005 and 2006. I've also been given
19 information from your attorney today that involve
20 laudatory chrono (sic) from October 2005 for the prison
21 industries fabric enterprise and I have been shown a
22 letter dated July 2006. That was a general laudatory
23 letter to fabric operations and mentioned you
24 specifically as being a contributor to that industry.
25 Despite a lot of skill in textiles and despite a great
26 deal of skill as a sewing, sewing machine operator, you
27 have not yet completed a trade. Am I correct?

1 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

2 **DEPUTY COMMISSIONER MARTIN:** Okay. I thought so.

3 Thank you. Tell me, what is your skill in being a
4 butcher because I believe I heard that you would like
5 to retire with that trade or you would like to own your
6 own butcher shop in Mexico.

7 **INMATE RAMIREZ THROUGH INTERPRETER:** I cut meat.
8 Before we used to do it with a knife but now they have
9 all kinds of machines to do that. It's a good business
10 to establish and you don't need too much money to
11 start. You could also stay with somebody else.

12 **DEPUTY COMMISSIONER MARTIN:** Where did
13 Mr. Ramirez, where did Mr. Ramirez originally learn
14 that skill?

15 **INMATE RAMIREZ THROUGH INTERPRETER:** In Tijuana.
16 Almost all my family are butchers. All have worked in
17 the butchers. Also we have worked the place where they
18 cut it.

19 **DEPUTY COMMISSIONER MARTIN:** Am I correct that
20 Mr. Ramirez would like to own his own shop in Mexico?

21 **INMATE RAMIREZ THROUGH INTERPRETER:** I would like
22 to do so but in the beginning to have to stay with
23 somebody else.

24 **DEPUTY COMMISSIONER MARTIN:** Moving to the
25 subject of self help in the institution, I see that
26 Mr. Ramirez has attended NA, AA. I've seen chronos from
27 July of 2005, January of 2006 and December of 2006 and

31.

1 he is described as having sincerity and commitment to
2 that program. Mr. Ramirez completed the impact program
3 in 2003. He was affiliated with project change and --

4 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

5 **DEPUTY COMMISSIONER MARTIN:** -- in September of
6 2006, it was September the 26th 2006, he accomplished a
7 three hour video review of an anger management program
8 as well as a three hour video review of re-engaging
9 into society.

10 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

11 **DEPUTY COMMISSIONER MARTIN:** Under self help, I
12 often consider education upgrades and I believe that
13 Mr. Ramirez has not completed his GED. Am I correct?

14 **INMATE RAMIREZ THROUGH INTERPRETER:** That's true.
15 I have not finished it. It's very hard for me to
16 complete the GED.

17 **DEPUTY COMMISSIONER MARTIN:** Because of language
18 issues or because of intellectual issues?

19 **INMATE RAMIREZ THROUGH INTERPRETER:** Language.
20 All I know is that it's a little bit harder for me
21 because the subjects are a little bit higher than what
22 I have studied.

23 **DEPUTY COMMISSIONER MARTIN:** Okay. Okay. Moving
24 to the topic of discipline in the institution,
25 Mr. Ramirez has only one 115. That was in 1988 and
26 that involved not being at count. I think, I read that
27 he was in the wrong cell.

1 INMATE RAMIREZ THROUGH INTERPRETER: Yes.

2 DEPUTY COMMISSIONER MARTIN: Mr. Ramirez has
3 acquired four 128s, the last one was recent.

4 INMATE RAMIREZ THROUGH INTERPRETER: Yes.

5 DEPUTY COMMISSIONER MARTIN: Just six months ago
6 for disobeying an order.

7 INMATE RAMIREZ THROUGH INTERPRETER: Yes.

8 DEPUTY COMMISSIONER MARTIN: What did that
9 involve?

10 INMATE RAMIREZ THROUGH INTERPRETER: Because I
11 didn't want to go to an interview of a problem related
12 to a problem that happened in the yard. I know that I
13 made a mistake but there was a going to break the yard.

14 DEPUTY COMMISSIONER MARTIN: I don't understand.
15 He was told not to go to the yard?

16 INMATE RAMIREZ THROUGH INTERPRETER: No, I didn't
17 want to go to an interview.

18 DEPUTY COMMISSIONER MARTIN: And where was the
19 interview?

20 INMATE RAMIREZ THROUGH INTERPRETER: Where they
21 interview you about what happened.

22 DEPUTY COMMISSIONER MARTIN: About events in the
23 institution?

24 INMATE RAMIREZ THROUGH INTERPRETER: Yes.

25 DEPUTY COMMISSIONER MARTIN: So Mr. Ramirez felt
26 compulsion from the Inmate Code of Conduct. Am I
27 correct?

1 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes, there
2 are rules that you cannot break in there.

3 **DEPUTY COMMISSIONER MARTIN:** I think I understand
4 it. In, we're still talking about 128s and in 2005,
5 Mr. Ramirez received a 128 for having contraband and I
6 understand that was a box cutter.

7 **INMATE RAMIREZ THROUGH INTERPRETER:** It was a
8 blade from a, a razor for shaving and I put a tape
9 around it.

10 **DEPUTY COMMISSIONER MARTIN:** I've seen 115s
11 written for that.

12 **INMATE RAMIREZ THROUGH INTERPRETER:** No.

13 **DEPUTY COMMISSIONER MARTIN:** I'm wrong? I
14 haven't?

15 **INMATE RAMIREZ THROUGH INTERPRETER:** No, I
16 haven't seen that. On my own.

17 **DEPUTY COMMISSIONER MARTIN:** Well, my comment to
18 Mr. Ramirez is that there's been two recent 128s that
19 are a little on the serious side. The two prior to
20 that are for an unexcused absence and a failure to
21 report to a job assignment.

22 **INMATE RAMIREZ THROUGH INTERPRETER:** When was
23 that?

24 **DEPUTY COMMISSIONER MARTIN:** We have four 128s.
25 The two most recent ones in 2005 and in 2006 involve
26 contraband, it was very close to a weapon and
27 disobeying an order.

1 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

2 **DEPUTY COMMISSIONER MARTIN:** Also what I consider
3 relatively serious. The two older 128s, were for an
4 unexcused absence and a failure to report.

5 **INMATE RAMIREZ THROUGH INTERPRETER:** At work.

6 **DEPUTY COMMISSIONER MARTIN:** (inaudible) in 1987
7 failure to report to a job assignment.

8 **INMATE RAMIREZ THROUGH INTERPRETER:** I don't
9 remember that 128. Where was I working?

10 **ATTORNEY SPARKS:** Wasn't it at San Quentin, SQ?

11 **DEPUTY COMMISSIONER MARTIN:** I am looking at a
12 128 chrono dated November 4th 1987. It says that:

13 "On that date at approximately 0600
14 hours, Inmate Ramirez, without proper
15 authorization failed to report to his
16 job assignment in the food service
17 department. This is in direct violation
18 of the Director's Rule. Ramirez is aware
19 of this documentation."

20 Does that answer Mr. Ramirez's question or does that
21 refresh his memory? To answer Counsel, that was from
22 San Quentin.

23 **INMATE RAMIREZ THROUGH INTERPRETER:** I don't
24 remember that they had that handed down.

25 **DEPUTY COMMISSIONER MARTIN:** Okay. I'm going to
26 move on to the 2002 psychological evaluation. I'm going
27 to give my impression that it is largely favorable. It

1 says that:

2 "Mr. Ramirez's dangerousness in the
3 institution is well below average
4 compared to level two inmate
5 population."

6 And that same assessment of his dangerousness in the
7 community or rather a similar assessment of his
8 dangerousness in the community is no more than an
9 average citizen. Mr. Ramirez's risk factors are, of
10 course, alcohol and drugs. Mr. Ramirez is referred to
11 as being competent and responsible and the clinician
12 says that there is no mental health disorder that
13 requires treatment.

14 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

15 **DEPUTY COMMISSIONER MARTIN:** I'm finished with my
16 evaluation of institutional adjustment but I'd like to
17 ask Mr. Ramirez a question about his life crime. May
18 I?

19 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes, sure.

20 **DEPUTY COMMISSIONER MARTIN:** Mr. Ramirez, did you
21 shoot your victim in the back or from behind?

22 **INMATE RAMIREZ THROUGH INTERPRETER:** Not at any
23 time. I did not shoot him from the back. I know that
24 some documents said that he got shot from the back. Not
25 at any moment I shot him in the back.

26 **DEPUTY COMMISSIONER MARTIN:** Well, the
27 pathologist, I believe, felt that one shot was to the

1 upper right arm area and fired from behind. Do you
2 disagree with that?

3 **INMATE RAMIREZ THROUGH INTERPRETER:** It's okay
4 what they say. Probably he was falling down when I shot
5 that shot but not at any moment, at any time did I shot
6 (sic) him in the back.

7 **PRESIDING COMMISSIONER INGLEE:** One shot in the
8 back.

9 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes, I knew
10 that there was a shot from the back but I did not shot
11 (sic) him the back.

12 **DEPUTY COMMISSIONER MARTIN:** Okay, I thank
13 everyone for letting me commandeer the hearing for
14 that, that question I had. Mr. Ramirez, have I covered
15 your institutional adjustment?

16 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

17 **DEPUTY COMMISSIONER MARTIN:** Counsel, is there
18 anything that I failed to mention?

19 **ATTORNEY SPARKS:** Not that I can see. Thank you.

20 **DEPUTY DISTRICT ATTORNEY MORRISON:** Deputy
21 Commissioner, I believe that we have previously
22 submitted an autopsy report and autopsy photos. There's
23 an indication from our file from the District Attorney
24 at the 1996 hearing and --

25 **DEPUTY COMMISSIONER MARTIN:** Is there? I want to
26 see if those are the ones you're talking about.

27 **DEPUTY DISTRICT ATTORNEY MORRISON:** Well, it says

1 autopsy photos and autopsy report on page five. That's
2 gun shot wound number five. The entry of gun shot wound
3 number five is located on the left side of the upper
4 back, about 18 inches from the top of the head and
5 three and a quarter inches left of the midline such,
6 just three inches from the center of the back.

7 **DEPUTY COMMISSIONER MARTIN:** And is that an entry
8 wound, sir?

9 **DEPUTY DISTRICT ATTORNEY MORRISON:** That is an
10 entry wound and it shows a rim of abrasion measuring
11 approximately 1/8th of an inch at its thickest part to
12 relatively round wound maybe approximately 3/8th of an
13 inch in diameter. There's no powder or tattoo or soot
14 around or within the wound. This wound appears to be a
15 distant gun shot wound. The exit wound is not present.
16 The bullet was recovered on the left side of the
17 thoracic spine near the fourth thoracic spine. This
18 bullet is exactly the same as the others. It's a
19 semi-wad cut type of bullet also appears to be a .38
20 caliber bullet. The direction is basically back to
21 front, slightly left to right and slightly upwards
22 direction. The perforation is noted on the chest wall
23 and back and nicks the spine. It is a potentially fatal
24 gun shot wound.

25 **DEPUTY COMMISSIONER MARTIN:** Thank you,
26 Mr. Morrison.

27 **DEPUTY DISTRICT ATTORNEY MORRISON:** Yes. Happy to

1 help.

2 **DEPUTY COMMISSIONER MARTIN:** Then, Counsel, you
3 say that my covering of the institutional has been
4 complete. With that, I'll return to the Chair.

5 **PRESIDING COMMISSIONER INGLEE:** All right. Thank
6 you. I have no questions. District Attorney, do you
7 have any questions?

8 **DEPUTY DISTRICT ATTORNEY MORRISON:** During this
9 confrontation, did the Inmate tell his victim, 'If I
10 see you around here, I'll kill you?'?

11 **INMATE RAMIREZ THROUGH INTERPRETER:** Did I said
12 (sic) or he talked?

13 **DEPUTY DISTRICT ATTORNEY MORRISON:** The Inmate,
14 r. Ramirez, tell that to the victim?

15 **RAMIREZ THROUGH INTERPRETER:** Never.

16 **DISTRICT ATTORNEY MORRISON:** Did the
Inmate say anything at his trial?

INMATE RAMIREZ THROUGH INTERPRETER: If I said

DEPUTY DISTRICT ATTORNEY MORRISON: Did the
Inmate say basically the same version to the jury
as he told the parole Panel today?

INMATE RAMIREZ THROUGH INTERPRETER: Yes.

DEPUTY DISTRICT ATTORNEY MORRISON: Did the
Inmate say what happened when the victim received
the fatal gunshot wound when the Inmate shot the

1 **INMATE RAMIREZ THROUGH INTERPRETER:** He continued
2 to advance towards me.

3 **DEPUTY DISTRICT ATTORNEY MORRISON:** Okay. And did
4 he have a knife in his hand at that time?

5 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

6 **DEPUTY DISTRICT ATTORNEY MORRISON:** So what
7 happened to the knife?

8 **INMATE RAMIREZ THROUGH INTERPRETER:** I suppose
9 they found the knife in the victim's pocket.

10 **DEPUTY DISTRICT ATTORNEY MORRISON:** Well, if he
11 was shot in the chest the first time and the Inmate hit
12 him three or four times before he fell, then the Inmate
13 continued to shoot the victim after he fell to the
14 ground?

15 **INMATE RAMIREZ THROUGH INTERPRETER:** I shot him
16 one more shot when he wanted to stand up.

17 **DEPUTY DISTRICT ATTORNEY MORRISON:** Okay. So when
18 in the course of events between the first shot that hit
19 him and the last shot that hit him did the victim put
20 the knife in his pocket?

21 **INMATE RAMIREZ THROUGH INTERPRETER:** When he fell
22 down to the floor, he still had that knife in his
23 hands.

24 **DEPUTY DISTRICT ATTORNEY MORRISON:** So why did
25 the police find it folded up in his pocket?

26 **INMATE RAMIREZ THROUGH INTERPRETER:** I didn't
27 (sic) know how they did that. You'll have to remember

1 that other people arrived before the police.

2 **DEPUTY DISTRICT ATTORNEY MORRISON:** So does the
3 Inmate think they folded up the knife, put it in his
4 pocket?

5 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes. That's
6 what I believe.

7 **DEPUTY DISTRICT ATTORNEY MORRISON:** I have no
8 other questions. Thank you.

9 **PRESIDING COMMISSIONER INGLEE:** Okay. Counsel,
10 questions?

11 **ATTORNEY SPARKS:** No, thank you.

12 **PRESIDING COMMISSIONER INGLEE:** Let's go to
13 summary please?

14 **DEPUTY DISTRICT ATTORNEY MORRISON:** 3042 notices?
15 You read that right?

16 **PRESIDING COMMISSIONER INGLEE:** I've already --

17 **DEPUTY DISTRICT ATTORNEY MORRISON:** The District
18 Attorney joins the Longbeach Police Department, the
19 Inmate's version which was obviously not believed by
20 the jury is summarized in the Appellate, in the
21 Appellate report is contrary to what the other
22 witnesses described and it's summarized in the
23 Longbeach police report in the letter which includes
24 witnesses revealed to investigators that the victim and
25 Inmate Ramirez were involved in an incident about a
26 month prior to the murder in which they chased each
27 other with knives and threw rocks at each other and

1 during this, Inmate Ramirez threatened the victim,
2 quote, 'If I see you around here, I'll kill you.' End
3 quote. The autopsy also shows that the victim had .17
4 blood alcohol level. And this is inconsistent with the
5 activity described by the Inmate of the victim chasing
6 him and posing a threat. I have trouble trying to
7 reconcile this. Here's the victim, the Inmate had a
8 grudge against the victim, had previously threatened
9 him and was described by the witnesses as summarized in
10 the official Board Report and in the summary of the
11 other instant trial, it's inconsistent with the
12 Inmate's statement that the Inmate basically saw a guy
13 he previously threatened and that he had a grudge
14 against, pulled out his gun and blew him away. The
15 Inmate's speculation that other people would come upon
16 a mortally wounded man and take the time to fold up a
17 buck knife which the Inmate had previously described as
18 a switchblade and put it in his pocket, it just seems a
19 little incongruous. Therefore, it calls into question
20 both the previous psych reports in terms of their
21 assessment, in terms of it's kind of hard to validly
22 assess a person who's not completely truthful. As a
23 psychologist, the veracity is an underscore, underlying
24 requirement for psychological evaluations. Therefore, I
25 do not believe it's totally supportive as though, even
26 though in the 2005 report says he poses no more risk
27 than the average citizen, the average citizen hasn't

1 carried a gun and gunned down a person (inaudible). We
2 oppose parole. Thank you.

3 **PRESIDING COMMISSIONER INGLEE:** All right. Thank
4 you. Counsel, please?

5 **ATTORNEY SPARKS:** Mr. Ramirez has written out a
6 document that I'm going to refer to at this time. It
7 says that he realizes that he has a US INS hold and he
8 will be deported back to Mexico where he'll reside in
9 his father's house in Tijuana or his brother's house in
10 Tijuana. We have read letters to that effect. What we
11 missed today was that he got something from Mexico
12 indicating where the meetings would be in the community
13 and maybe, just briefly have Mr. Ugalde confirm if in
14 fact that's what he previously read as the information
15 and then the Panel can just refer to that.

16 **PRESIDING COMMISSIONER INGLEE:** Alcoholics
17 Anonymous meetings?

18 **ATTORNEY SPARKS:** Right.

19 **INMATE RAMIREZ THROUGH INTERPRETER:** Yes.

20 **PRESIDING COMMISSIONER INGLEE:** Okay.

21 **INMATE RAMIREZ THROUGH INTERPRETER:** It has to do
22 with different addresses where --

23 **PRESIDING COMMISSIONER INGLEE:** Good.

24 **INMATE RAMIREZ THROUGH INTERPRETER:** --

25 Alcoholics Anonymous will be meeting at --

26 **PRESIDING COMMISSIONER INGLEE:** Very good.

27 **INMATE RAMIREZ THROUGH INTERPRETER:** -- that he

1 could go.

2 **ATTORNEY SPARKS:** So he's looked into that and
3 that's important, part of his parole objective to
4 continue to remain sober and abstain from all alcohol
5 use which is a precursor to violence potentially in the
6 community as noted by the psychological reports. So, he
7 has skills that make him employable in Mexico. The
8 history of being a meat cutter as well as PIA sewing
9 machine and textiles where he provided documentation
10 from the PIA today. He also has provided additional
11 family support letters where he's maintained stable
12 relationships in the community. He writes here that as
13 pursuant to his remorse that he has a great, true and
14 genuine remorse, that he fully accepts responsibility
15 and repercussions of his actions and he believes that
16 his incarceration has been of the type where he has
17 done something positive out of his past mistakes and
18 then he lives his life with his actions not just mere
19 words. As he's now 46 years of age, we have reports
20 from psychological departments which indicate that
21 statistically the probability of recidivism is greatly
22 reduced by greater maturation due to age and he
23 indicates that he would not commit another crime. He
24 has cleared psychological reports. It's my impression
25 that the would pose little to no risk to the community
26 if released at this time. He's completed project
27 change, done Alcoholics Anonymous and those I think

1 were the major precursors to his violence. Thank you.

2 **PRESIDING COMMISSIONER INGLEE:** Mr. Ramirez, this
3 is your opportunity to tell us why you believe you are
4 suitable for parole.

5 **INMATE RAMIREZ THROUGH INTERPRETER:** I believe
6 after all these years, I believe that the mentality of
7 a person changes. As you get older, the mentality
8 changes. You don't have the same type of mentality
9 when you were young. You think things better. I
10 believe that I'm a new person. I don't think the same
11 way that I used to. My feelings are different also. I
12 believe that if you could give me an opportunity, I
13 could have a life of peace.

14 **PRESIDING COMMISSIONER INGLEE:** Anything else,
15 sir? All right. We're going to recess. And the time is
16 2:38.

17 **R E C E S S**

18 **--o0o--**

19

20

21

22

23

24

CALIFORNIA BOARD OF PAROLE HEARINGS

D E C I S I O N

DEPUTY COMMISSIONER MARTIN: We're back on tape.

PRESIDING COMMISSIONER INGLEE: All parties that were here when we went into recess have since returned. The time is eight minutes after 3:00. This is in the matter of Martin Ramirez, CDC number D-66383. The Panel reviewed all information received from the public and relied on the following circumstances in concluding that the prisoner is not suitable for parole and would pose an unreasonable risk of danger to society, or a threat to public safety if released from prison. Mr. Ramirez, you've heard this before and it's something that of course is difficult to have to listen to again but the offense you carried out, we believe was especially cruel and violent and callous in that you shot a victim and in doing so, murdered him. The victim was abused during this offense. The offense was carried out, we believe, in a dispassionate and calculated manner. The offense was carried out in a manner which demonstrated an exceptionally callous disregard for human life in that you murdered the victim for an extension of an earlier altercation. The motive of the crime was inexplicable as the murder, as you already noted, was generated out of a prior feud and argument. These conclusions were drawn from a statement of facts and as a result of

46

1 an ongoing feud and previous altercation, the prisoner
2 shot the victim causing him to fall to the ground and
3 then proceeded to continue firing additional rounds into
4 the victim as he lay defenseless on the ground until he
5 died. The prisoner had no escalating pattern of
6 criminal conduct or violence. However, he did have
7 somewhat of an unstable social history in this regard.
8 He left school in Mexico in the 6th grade. He then
9 illegally entered the United States and while in the
10 United States, he used illegal substances such as
11 marijuana, alcohol and cocaine. The prisoner has
12 programmed in a limited manner since he's been
13 incarcerated and this is disturbing because he's been in
14 prison for a period of 21 years. In this regard, he has
15 failed to develop a marketable skill that can be put to
16 use upon release even though he does have some
17 experience in the area of being a butcher. He has
18 failed to upgrade himself educationally or vocationally.
19 He has not received his GED. Now, we accept the fact
20 that he does not speak English and therefore, passing a
21 GED is difficult but we believe he may have more of a
22 command of the English language than he is letting us on
23 to but in a 21 year period of time, he should have
24 gained enough English skills to be, and also educational
25 skills to pass the GED which would give him certainly an
26 advantage upon parole and provide him to be dual,

47

1 bilingual capacity so that when he returns to Mexico, he
2 would have the advantage of being able to speak good
3 English and Spanish. Unfortunately, he does not have
4 this right at this time. He has not fully participated
5 in beneficial self help programs. They tend to be off
6 and on and particular with AA. He has however been,
7 been, excuse me, had done an excellent job when it comes
8 to discipline. He has only had four 128s, the last one
9 being, unfortunately, 8/8 of 2006 which of course is
10 less than a year away for disobeying a direct order. He
11 has had only one 115 disciplinary report and that's in
12 regard for being unresponsive to an account, for a
13 count. And that's 4/2 of 1988 so that's excellent work.
14 His last psychological report dated 3/18 of 2005 and
15 authored by Jeff Howlin, H-O-W-L-I-N, Howlin. Doctor of
16 Education, was favorable. In this regard he said the
17 following: "That his violence potential within a
18 controlled setting is estimated to be well below the
19 average compared to his level two inmate population. If
20 released to the community, his violence potential was
21 estimated to be no more than the average citizen in the
22 community. His most recent, his most significant risk
23 factor would be a precursor to violence would be a
24 return to the abuse of alcohol or drugs. Should this man
25 abuse substances again, his violence potential would be
26 considered much higher than that of the average citizen

1 in the community." His parole plans. He does have
2 viable residential plans within the Republic of Mexico
3 and that would be living with his brother in Tijuana.
4 However, he does not have detailed employment plans.
5 There's an indication that he could work for his family
6 but they are, they are only, it's only mentioned having
7 this employment. There is (sic) no details as to what
8 the employment would be, what he'd be doing or how much
9 he'd be paid. He has not developed a marketable skill
10 that he could take to Mexico other than the experience
11 that he has as a butcher which he did prior to coming to
12 prison. He does have the start of a plan in regard to
13 his substance abuse by having information on AA in
14 Mexico which we believe is excellent. His 3042
15 responses. He received a letter, we received a letter
16 from the City of Longbeach in which this is the law
17 enforcement agency that investigated the case and they
18 recommended against parole at this time. The
19 presentation here by the Deputy District Attorney for
20 Los Angeles County and he too recommended against parole
21 at this time. Because of the recent 128, the prisoner's
22 gains are recent and he must now demonstrate an ability
23 to maintain gains over a more extended period of time
24 also to be able to hopefully be able to expand on his
25 ability to speak English and to deal with his GED and
26 possibly vocation. However, the prisoner should be

1 commended for various things he's accomplished while
2 being in prison. I'd like to ask the Deputy Commissioner
3 if he'd go over those for me, please.

4 **DEPUTY COMMISSIONER MARTIN:** Mr. Ramirez, you're
5 to be commended for being a good worker. You get up. You
6 go to work. You get good chronos. You're a good team
7 player and I, I, as an aside, I would like to see you
8 channel that effort into acquiring a vocation or trade
9 but I'm complimenting you on your work ethic. I also
10 want to say at this time that I applaud you for self
11 surrendering after your life crime. I did not mention
12 that earlier but I think that's, that's good that you
13 did that. I'll return to the Chair. Thank you.

14 **PRESIDING COMMISSIONER INGLEE:** The Panel makes
15 the following finding that the Inmate needs additional
16 time in order to be able to pick up on his English
17 skills, hopefully pass the GED, and to be able to
18 complete a vocation. Therefore, in a separate decision,
19 the hearing Panel finds that it is not reasonable to
20 expect that parole would be granted at any time during
21 the next two years. Specific reasons are as follows: He
22 participated in a terrible crime in which he shot a man
23 who he had had an altercation with in the past, a
24 running feud. He shot him while the man was standing.
25 The man fell to the ground. He then shot him two more
26 times while he was on the ground. It was a total of at

1 least four gunshot wounds in the abdomen causing the
2 death of Mr. Jones. The offense was carried out
3 certainly in a dispassionate and calculated manner. The
4 victim was abused during this offense. Again, because of
5 being shot, falling to the ground and then being shot
6 again. The offense was carried out in a manner which
7 demonstrated an exceptionally callous disregard for
8 human life. He was shot four to six times in the body.
9 The motive of the crime was inexplicable. As a man who
10 lost his life over a simple feud and altercation. In a
11 recent psychological examination that was dated 3/18 of
12 2005, makes the following recommendations: "As the
13 Inmate Ramirez has acknowledged history relating to
14 substance use, I would recommend that while in prison,
15 he continue his involvement with AA, also continue with
16 pro-social behavior demonstrated through his
17 incarceration." Finally, the Panel recommends that he
18 remain disciplinary free and we already noted that he
19 upgrade himself by completing one vocation before his
20 next hearing, that he work hard on his basic English
21 skills and work on completing a GED and that, if
22 available, continue to participate in self-help
23 programs. Good luck, sir. Do you have any comments
24 you'd like to make?

25 **DEPUTY COMMISSIONER MARTIN:** Nothing, thank you.
26 Good luck.

27 **MARTIN RAMIREZ D-66383 DECISION PAGE 6 4/25/07**

51

1 **PRESIDING COMMISSIONER INGLEE:** This hearing is
2 over and the time is 20 minutes after 3:00.

3 **A D J O U R N M E N T**

4 **--oOo--**

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23 **PAROLE DENIED TWO YEARS**

24 **THIS DECISION WILL BE FINAL ON: AUG 23 2007**

25 **YOU WILL BE PROMPTLY NOTIFIED IF, PRIOR TO THAT**

26 **DATE, THE DECISION IS MODIFIED.**

27 **MARTIN RAMIREZ D-66383 DECISION PAGE 7 4/25/07**

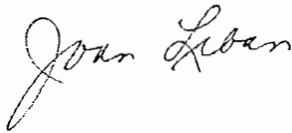
52

**CERTIFICATE AND
DECLARATION OF TRANSCRIBER**

I, JOAN LIBAN, a duly designated transcriber, NORTHERN CALIFORNIA COURT REPORTERS, do hereby declare and certify under penalty of perjury that I have transcribed one audio recording which covers a total of pages numbered 1 - 51, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY, SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING of MARTIN RAMIREZ, CDC No. D-66383, on APRIL 25, 2007, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned audio recording to the best of my ability.

I hereby certify that I am a disinterested party in the above-captioned matter and have no interest in the outcome of the hearing.

Dated JULY 1, 2007 at Sacramento County, California.

A handwritten signature in cursive script that reads "Joan Liban".

Joan Liban Transcriber

Northern California Court Reporters

EXHIBIT

2

Court of Appeal, Second Appellate District, Div. 4 - No. B204676
S160766

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re MARTIN A. RAMIREZ on Habeas Corpus

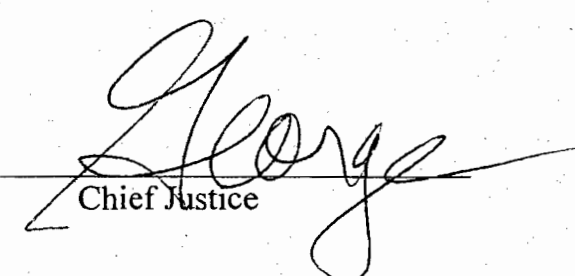
The petition for review is denied.

**SUPREME COURT
FILED**

APR - 9 2008

Frederick K. Ohlrich Clerk

Deputy


Chief Justice

copy

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

FILED

JAN 31 2008

JOSEPH A. LANE

Clerk

S. VEVERKA

Deputy Clerk

In re MARTIN A. RAMIREZ,

on Habeas Corpus.

B204676

(Los Angeles County
Super. Ct. No. A035761)
(Steven R. Van Sicklen, Judge)

ORDER

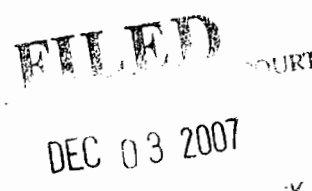
THE COURT:*

The petition for writ of habeas corpus filed on December 31, 2007, had been read and considered and is denied. Petitioner has failed to state sufficient facts or legal authority demonstrating entitlement to the relief requested. There is "some evidence" to support the findings of the Board of Parole Hearings. (See *In re Dannenberg* (2005) 34 Cal.4th 1061, 1071.)

*EPSTEIN, P.J.

WILLHITE, J.

MANELLA, J.

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES		Reserved for Clerk's File Stamp	
COURTHOUSE ADDRESS: Clara Shortridge Foltz Criminal Justice Center 210 West Temple Street Los Angeles, CA 90012			
PLAINTIFF/PETITIONER: LAWRENCE WEISWASSER			
CLERK'S CERTIFICATE OF MAILING CCP, § 1013(a) Cal. Rules of Court, rule 2(a)(1)		CASH NUMBER: BH004700	

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served:

- | | |
|--|--|
| <input type="checkbox"/> Order Extending Time | <input type="checkbox"/> Order re: Request for Extension of Time |
| <input type="checkbox"/> Order to Show Cause | <input checked="" type="checkbox"/> Order Petition for Writ of Habeas Corpus |
| <input type="checkbox"/> Order for Informal Response | <input type="checkbox"/> Order re: Writ of Habeas Corpus |
| <input type="checkbox"/> Order for Supplemental Pleading | <input type="checkbox"/> Copy of |

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to the cause. I served this document by placing true copies in envelopes addressed as shown below and then by sealing and placing them for collection; stamping or metering with first-class, prepaid postage; and mailing on the date stated below, in the United States mail at Los Angeles County, California, following standard court practices.

12-03-07
DATED AND DEPOSITED

JOHN A. CLARKE, Executive Officer/Clerk

By:  Clerk
Miriam Gonzalez

Martin A. Ramirez
D-66383
P.O. Box 705
CTF North Facility
Soledad, CA 93960-0705

Department of Justice
Office of the Attorney General of the State of
California
110 West A Street, Suite 1100
San Diego, CA 92101
Attn: Mr. Gregory J. Marcot

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**DEPT 100**

Date: OCTOBER 26, 2007

Honorable: STEVEN R. VAN SICKLEN
NONEJudge MIRIAM GONZALEZ
Bailiff NONEDeputy Clerk
Reporter

(Parties and Counsel checked if present)

BH 004872

In re,
MARTIN A. RAMIREZ
Petitioner,
On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

Nature of Proceedings: ORDER RE: WRIT OF HABEAS CORPUS

The Court has read and considered the Petition for Writ of Habeas Corpus filed on August 31, 2007 by the Petitioner. Having independently reviewed the record, giving deference to the broad discretion of the Board of Parole Hearings ("Board") in parole matters, the Court concludes that the record contains "some evidence" to support the Board's finding that the Petitioner presents an unreasonable risk of danger to society and is unsuitable for parole. Cal. Code Reg. Tit. 15, §2402; *In re Rosenkrantz* (2002) 29 Cal.4th 616, 667.

The Petitioner was received in the Department of Corrections on September 16, 1987 after a conviction for second degree murder. The term was fifteen years to life in prison. His minimum parole eligibility date was December 27, 1996.

The record reflects that on December 24, 1986, the Petitioner shot and killed Geraldo Jones. There was a total of four gunshot wounds to the abdomen. A witness reported that the Petitioner had shot the victim again after he had fallen to the ground. The Petitioner indicated that the victim had threatened to kill him with a knife on several occasions and had come to his family's home looking for him. The Petitioner was in fear for his life and the safety of his family, and believed that he would be killed. He also indicated that the victim had pulled a knife on him at the time of the fatal shooting.

The Board found the Petitioner unsuitable for parole after a parole consideration hearing held on April 25, 2007. The Petitioner was denied parole for two years. The Board concluded that the Petitioner was unsuitable for parole and would pose an unreasonable risk of danger to society or a threat to public safety if he is released. The Board based its decision on the commitment offense and the Petitioner's institutional behavior.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**DEPT 100**

Date: OCTOBER 26, 2007

Honorable: STEVEN R. VAN SICKLEN
NONEJudge MIRIAM GONZALEZ
Bailiff NONEDeputy Clerk
Reporter

(Parties and Counsel checked if present)

BH 004872

In re,
MARTIN A. RAMIREZ
Petitioner,
On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

The Court finds that there is some evidence to support the Board's finding that the commitment offense was carried out in a manner which demonstrates an exceptionally callous disregard for human suffering. Cal. Code Regs., tit. 15, §2402, subd. (c)(1)(D). The record reflects that the Petitioner had shot the victim after he had already been shot and fallen to the ground. However, the record does not support the Board's finding that the motive for the crime was very trivial in relation to the offense. Cal. Code Regs., tit. 15, §2402, subd. (c)(1)(E). The Petitioner indicated that he was threatened several times by the victim and that the Petitioner was in fear for his life.

The Board noted that the Petitioner had no prior convictions of any kind. However, it found that the Petitioner did have four 128s and one 115. It cited the recent date of two of the 128s as a basis for its decision. However, there is no record of any violent 115s in the Petitioner's many years in prison, and his institutional behavior is not a basis upon which parole could properly be denied.

The Board also relied upon the fact that the Petitioner had not received his GED, while acknowledging that his lack of English skills would make that difficult to accomplish. It noted that he had not fully participated in beneficial self help programs, but there was no evidence to support that finding. The Board also found that the psychological report found him to be very favorable for release.

The Board's decision may be upheld, despite flaws in its findings, if it is clear it would have reached the same decision even absent the errors. See *In re Dannenberg* (2005) 34 Cal.4th 1061, 1100. The fact that the offense demonstrated an exceptionally callous disregard for human suffering constitutes a sufficient basis for the Board's decision.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**DEPT 100**

Date: OCTOBER 26, 2007

Honorable: STEVEN R. VAN SICKLEN
NONEJudge
BailiffMIRIAM GONZALEZ
NONEDeputy Clerk
Reporter

(Parties and Counsel checked if present)

BH 004872

In re,
MARTIN A. RAMIREZ
Petitioner,
On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

In addition, it noted that the Long Beach Police Department and Los Angeles County District Attorney's Office had opposed the Petitioner's release. While this is also not a factor on which the Board may rely to deny parole, such opposition may be properly considered. Penal Code § 3402.

The Board also noted several positive gains that the Petitioner has achieved while incarcerated. However, it concluded that despite these gains, the Petitioner posed an unreasonable threat to public safety at the time of its hearing. Penal Code § 3041(b).

Finally, the Court finds that the Board did not err in denying the Petitioner parole for a period of two years. The reasons were specified in the Board's decision, and essentially repeated the rationale for denying parole. The reasons need not be completely different from those justifying the denial of parole, and a sufficient basis for the two year denial did appear in the record as a whole. See *In re Jackson* (1985) 39 Cal.3d 464, 479.

As indicated in *Rosenkrantz, supra*, 29 Cal.4th 616, 677, it is irrelevant that a court might determine that evidence in the record tending to establish suitability for parole far outweighs evidence demonstrating suitability for parole, as long as there is some evidence to support the finding of unsuitability. See also, *In re Jacobson*, (Second Appellate District Court of Appeal, August 28, 2007), (2007) -- Cal. App. 4th --, and *In re Hyde* (Second Appellate District Court of Appeal, August 7, 2007) (2007) -- Cal. App. 4th --.

Accordingly, the petition is denied.

The court order is signed and filed this date. The clerk is directed to give notice.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT 100

Date: OCTOBER 26, 2007

Honorable: STEVEN R. VAN SICKLEN
NONE

Judge
Bailiff

MIRIAM GONZALEZ
NONE

Deputy Clerk
Reporter

(Parties and Counsel checked if present)

BH 004872

In re,

MARTIN A. RAMIREZ

Petitioner,

On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

A true copy of this minute order is sent via U.S. Mail to the following parties:

Martin A. Ramirez
D-66383
P.O. Box 705
CTF North Facility
Soledad, CA 93960-0705

Department of Justice
Office of the Attorney General of the State of California
110 West A Street, Suite 1100
San Diego, CA 92101
Attn: Mr. Gregory J. Marcot

Martin A. Ramirez D-66383
P.O. Box 689/FW-138-U
CTF Central Facility
Soledad, CA.93960-0689

Legal Mail

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CA.94102



02 1M
0004229613
MAILED FROM 7

